

Highly Confidential - Subject to Further Confidentiality Review

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - -

IN RE: NATIONAL	)	
PRESCRIPTION	)	MDL No. 2804
OPIATE LITIGATION	)	
<hr/>		Case No.
	)	1:17-MD-2804
THIS DOCUMENT RELATES	)	
TO ALL CASES	)	Hon. Dan A. Polster

- - -

VIDEOTAPED DEPOSITION OF THOMAS G. SCHOEN

Wednesday, September 5, 2018

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
CONFIDENTIALITY REVIEW

- - -

Videotaped deposition of THOMAS G. SCHOEN, held  
at the Hilton Inn Garden Toledo, 6165 Levis Commons  
Boulevard, Perrysburg, Ohio, commencing at 9:03 a.m., on  
the above date, before Carol A. Kirk, Registered Merit  
Reporter and Notary Public.

- - -

GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
deps@golkow.com

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<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 MCHUGH FULLER LAW GROUP</p> <p>4 BY: MICHAEL J FULLER, JR., ESQUIRE</p> <p>5 mike@mchughfuller.com</p> <p>6 AMY J QUEZON, ESQUIRE</p> <p>7 amy@mchughfuller.com</p> <p>8 97 Elias Whiddon Road</p> <p>9 Hattiesburg, Mississippi 39402</p> <p>10 601-261-2220</p> <p>11 On behalf of the Cardinal Health, Inc.:</p> <p>12 WILLIAMS &amp; CONNOLLY LLP</p> <p>13 BY: JOSEPH S BUSHUR, ESQUIRE</p> <p>14 jrbushur@wc.com</p> <p>15 725 Twelfth Street, N W</p> <p>16 Washington, DC 20005</p> <p>17 202-434-5420</p> <p>18 On behalf of the AmerisourceBergen:</p> <p>19 REED SMITH LLP</p> <p>20 BY: JAMES A PETKUN, ESQUIRE</p> <p>21 jpetkun@reedsmith.com</p> <p>22 Three Logan Square</p> <p>23 1717 Arch Street, Suite 3100</p> <p>24 Philadelphia, Pennsylvania 19103</p> <p>215-851-8100</p> <p>On behalf of HBC:</p> <p>MARCUS &amp; SHAPIRA LLP</p> <p>BY: JOSHUA A KOBRIN, ESQUIRE</p> <p>kobrin@marcus-shapira.com</p> <p>(VIA TELECONFERENCE)</p> <p>One Oxford Center, 35th Floor</p> <p>301 Grant Street</p> <p>Pittsburgh, Pennsylvania 15219-6401</p> <p>412-338-5208</p>	<p>1 On behalf of Teva Pharmaceuticals USA, Inc., Cephalon,</p> <p>2 Inc., Watson Laboratories, Inc., Actavis LLC, Actavis</p> <p>3 Pharma, Inc., f/k/a Watson Pharma, Inc.:</p> <p>4 MORGAN, LEWIS &amp; BOCKIUS LLP</p> <p>5 BY: ELLIOTT E. BROWN, ESQUIRE</p> <p>6 elliot.brown@morganlewis.com</p> <p>7 (VIA TELECONFERENCE)</p> <p>8 1111 Pennsylvania Avenue, NW</p> <p>9 Washington, DC 20004</p> <p>10 202-739-5833</p> <p>11</p> <p>12 On behalf of the Allergan Defendants:</p> <p>13 BARNES &amp; THORNBURG LLP</p> <p>14 BY: WILLIAM E. PADGETT, ESQUIRE</p> <p>15 wpadgett@btlaw.com</p> <p>16 (VIA TELECONFERENCE)</p> <p>17 11 South Meridian Street</p> <p>18 Indianapolis, Indiana 46204</p> <p>19 317-236-1313</p> <p>20</p> <p>21 ALSO PRESENT:</p> <p>22 A.J. Elkins, McHugh Fuller</p> <p>23 Darnell Brown, Videographer</p> <p>24 Gina Veldman, Trial Technician</p> <p>---</p>
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<p>1 On behalf of Walmart:</p> <p>2 JONES DAY</p> <p>3 BY: KRISTIN S M MORRISON, ESQUIRE</p> <p>4 kmorrison@jonesday.com</p> <p>5 901 Lakeside Avenue East</p> <p>6 Cleveland, Ohio 44114</p> <p>7 216-586-7375</p> <p>8 On behalf of Prescription Supply, Inc.:</p> <p>9 PELINI, CAMPBELL &amp; WILLIAMS LLC</p> <p>10 BY: PAUL B RICARD, ESQUIRE</p> <p>11 pbricard@pelini-law.com</p> <p>12 CRAIG G PELINI, ESQUIRE</p> <p>13 cgp@pelini-law.com</p> <p>14 SAMANTHA VOLEK, ESQUIRE</p> <p>15 svolek@pelini-law.com</p> <p>16 8040 Cleveland Avenue NW, Suite 400</p> <p>17 North Canton, Ohio 44720</p> <p>18 330-305-6400</p> <p>19 On behalf of Miami-Luken:</p> <p>20 JACKSON KELLY PLLC</p> <p>21 BY: WILLIAM J AUBEL, ESQUIRE</p> <p>22 william.j.aubel@jacksonkelly.com</p> <p>23 (VIA TELECONFERENCE)</p> <p>24 500 Lee Street East, Suite 1600</p> <p>Charleston, West Virginia 25301</p> <p>304-340-1092</p> <p>On behalf of McKesson:</p> <p>COVINGTON &amp; BURLING LLP</p> <p>BY: MEGHAN E MONAGHAN, ESQUIRE</p> <p>mmonaghan@cov.com</p> <p>One CityCenter</p> <p>850 Tenth Street, NW</p> <p>Washington, DC 20001</p> <p>202-662-5531</p> <p>On behalf of Endo Pharmaceuticals, Inc. and</p> <p>Endo Health Solutions Inc.:</p> <p>ARNOLD &amp; PORTER KAYE SCHOLER, LLP</p> <p>BY: ANGEL TANG NAKAMURA, ESQUIRE</p> <p>angel.nakamura@apks.com</p> <p>(VIA TELECONFERENCE)</p> <p>777 S Figueroa Street, Suite 4400</p> <p>Los Angeles, California 90017</p> <p>213-243-4000</p>	<p>1 VIDEOTAPED DEPOSITION OF THOMAS G. SCHOEN</p> <p>2 INDEX TO EXAMINATION</p> <p>3 WITNESS PAGE</p> <p>4 THOMAS G. SCHOEN</p> <p>5 EXAMINATION BY MR. FULLER: 12</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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<p style="text-align: right;">Page 10</p> <p>1                ---</p> <p>2                P R O C E E D I N G S</p> <p>3                ---</p> <p>4                THE VIDEOGRAPHER: Good morning. We are</p> <p>5                now on the record. My name is Darnell Brown, and</p> <p>6                I am a videographer with Golkow Litigation</p> <p>7                Services. Today's date is September 5, 2018, and</p> <p>8                the time is 9:03 a.m.</p> <p>9                This video deposition is being held in</p> <p>10               Perrysburg, Ohio, in the matter of In Re: Opioid Deps</p> <p>11               for the United States District Court for the Northern</p> <p>12               District of Ohio. The deponent is Thomas Schoen.</p> <p>13               Counsel will be noted on the stenographic</p> <p>14               record. The court reporter is Carol Kirk who will now</p> <p>15               swear in the witness.</p> <p>16               (Witness sworn.)</p> <p>17               THE VIDEOGRAPHER: You may begin.</p> <p>18               MR. FULLER: Aren't we supposed to all</p> <p>19               introduce ourselves?</p> <p>20               THE VIDEOGRAPHER: Yeah.</p> <p>21               MR. FULLER: All right. Mike Fuller on</p> <p>22               behalf of the Plaintiff.</p> <p>23               MR. ELKINS: AJ Elkins on behalf of the</p> <p>24               Plaintiff.</p>	<p style="text-align: right;">Page 12</p> <p>1               HBC.</p> <p>2               MS. NAKAMURA: Angel Nakamura on behalf</p> <p>3               of the Endo and Par Pharmaceutical Defendants.</p> <p>4               MR. AUBEL: Bill Aubel on behalf of</p> <p>5               Miami-Luken, Inc.</p> <p>6               MR. FULLER: I'm assuming that's</p> <p>7               everybody.</p> <p>8               ---</p> <p>9               THOMAS G. SCHOEN</p> <p>10               being by me first duly sworn, as hereinafter certified,</p> <p>11               deposes and says as follows:</p> <p>12               EXAMINATION</p> <p>13               BY MR. FULLER:</p> <p>14               Q. Mr. Schoen, please state your name,</p> <p>15               spelling your last name for the record.</p> <p>16               A. My name is Thomas G. Schoen. Last name</p> <p>17               Schoen, S-c-h-o-e-n.</p> <p>18               Q. And, Mr. Schoen, are you the owner and</p> <p>19               operator of a company called Prescription Supply,</p> <p>20               Inc.?</p> <p>21               A. I am an owner. There are more than one.</p> <p>22               And I'm president of Prescription Supply,</p> <p>23               Incorporated.</p> <p>24               Q. Who are the other owners?</p>
<p style="text-align: right;">Page 11</p> <p>1               MS. QUEZON: Amy Quezon on behalf of the</p> <p>2               Plaintiff.</p> <p>3               MS. VELDMAN: Gina Veldman on behalf of</p> <p>4               the Plaintiff.</p> <p>5               MR. PELINI: Craig Pelini. I represent</p> <p>6               PSI.</p> <p>7               MR. BUSHUR: Joseph Bushur on behalf of</p> <p>8               Cardinal Health.</p> <p>9               MR. PETKUN: James Petkun for</p> <p>10               AmerisourceBergen Corporation.</p> <p>11               MS. MONAGHAN: Meghan Monaghan on behalf</p> <p>12               of McKesson.</p> <p>13               MS. MORRISON: Kristin Morrison on</p> <p>14               behalf of Walmart.</p> <p>15               MS. VOLEK: Samantha Volek on behalf of</p> <p>16               PSI.</p> <p>17               MR. RICARD: Paul Ricard, PSI.</p> <p>18               MR. FULLER: And anybody on the phone?</p> <p>19               Can you note your appearance for the record.</p> <p>20               MR. PADGETT: Bill Padgett on behalf of</p> <p>21               HD Smith.</p> <p>22               MR. BROWN: Elliott Brown on behalf of</p> <p>23               Teva.</p> <p>24               MR. KOBRIN: Joshua Kobrin on behalf of</p>	<p style="text-align: right;">Page 13</p> <p>1               A. All family members.</p> <p>2               Q. Okay. Your family, I'm assuming?</p> <p>3               A. My family and my sister's family.</p> <p>4               Q. Fair enough.</p> <p>5               And your company has been around since,</p> <p>6               I think, about 1955; is that correct?</p> <p>7               A. That's correct.</p> <p>8               Q. And has it always been family owned --</p> <p>9               A. It has.</p> <p>10               Q. -- and operated?</p> <p>11               A. Yes, it has.</p> <p>12               Q. Okay. And you're aware that -- and tell</p> <p>13               me if it's okay -- but I heard counsel do it, so</p> <p>14               I'm assuming it is -- referring to Prescription</p> <p>15               Supply, Inc., as PSI.</p> <p>16               A. That's acceptable.</p> <p>17               Q. Okay. And you're aware that PSI has</p> <p>18               been sued in this litigation involving the opioid</p> <p>19               epidemic, correct?</p> <p>20               A. I'm aware.</p> <p>21               Q. You were also -- well, let me just</p> <p>22               attach the exhibits. We're going to attach as</p> <p>23               Plaintiff's 1 a copy of the notice. And this is</p> <p>24               more housekeeping for counsel and I. It's the</p>

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<p style="text-align: right;">Page 14</p> <p>1 second amended first notice will be Exhibit 1.</p> <p>2 Here. Let me just give you all the copies and</p> <p>3 you can pass them out.</p> <p>4 ---</p> <p>5 (PSI-Schoen Exhibit 1 marked.)</p> <p>6 ---</p> <p>7 BY MR. FULLER:</p> <p>8 Q. Mr. Schoen, just so you know, the first</p> <p>9 little bit here, we're going to just -- sort of</p> <p>10 going to be like housekeeping, just some notices</p> <p>11 and objections and things like that that I'll make</p> <p>12 sure as we get as part of the record of this</p> <p>13 deposition. Okay?</p> <p>14 Now, I'm going to assume -- and correct</p> <p>15 me if I am wrong -- that you have seen this notice</p> <p>16 prior to today; is that correct? Take a minute</p> <p>17 and flip through it.</p> <p>18 A. Actually, I don't know that I've seen</p> <p>19 this notice. But, yes, I've seen perhaps the</p> <p>20 first notice.</p> <p>21 Q. Fair enough. And particularly starting</p> <p>22 on page 5, I believe it is, the areas of inquiry.</p> <p>23 Do you see those listed there? And it goes on to</p> <p>24 page 6.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Actually, I have not reviewed this one.</p> <p>2 Q. Fair enough.</p> <p>3 Now, today -- and I'm sure you've been</p> <p>4 told -- you've been designated as a 30(b) witness,</p> <p>5 okay? And what that means is that you're here</p> <p>6 today to speak on behalf of a company; in this</p> <p>7 particular case, PSI.</p> <p>8 Are you aware of that?</p> <p>9 A. Yes.</p> <p>10 Q. So it's going to be a little awkward</p> <p>11 probably at times because I'm going to be asking</p> <p>12 you for information that PSI knows, not just</p> <p>13 Thomas Schoen; is that fair?</p> <p>14 A. Fair.</p> <p>15 Q. And for purposes of the 30(b), we're</p> <p>16 going to be limited to the subject matters set</p> <p>17 out, with one exception. Your counsel and I have</p> <p>18 talked over the past couple of weeks and reached</p> <p>19 certain agreements with certain topics set out in</p> <p>20 the notices.</p> <p>21 MR. FULLER: And, Counsel, you can</p> <p>22 correct me if I am wrong, but I'm going to read</p> <p>23 from my e-mail as to what we, I think, agreed to.</p> <p>24 And the first 30(b) notice, Subject Matter O, will</p>
<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. And have you had an opportunity to</p> <p>3 review those before today?</p> <p>4 A. I have.</p> <p>5 ---</p> <p>6 (PSI-Schoen Exhibit 2 marked.)</p> <p>7 ---</p> <p>8 Q. Okay. The second exhibit is going to be</p> <p>9 the second amended notice for the second 30(b).</p> <p>10 Mr. Schoen, it also starts on page 5,</p> <p>11 certain topic areas. And, again, I'd just ask if</p> <p>12 you have had an opportunity to make yourself</p> <p>13 familiar with those areas of inquiry prior to</p> <p>14 today?</p> <p>15 A. I have.</p> <p>16 ---</p> <p>17 (PSI-Schoen Exhibit 3 marked.)</p> <p>18 ---</p> <p>19 Q. Okay. And the third exhibit is going to</p> <p>20 be the Defendants' objections to our notice.</p> <p>21 We're just making those part of the</p> <p>22 record. I don't know if you've reviewed them or</p> <p>23 not, and it really doesn't matter to me, so don't</p> <p>24 worry about it.</p>	<p style="text-align: right;">Page 17</p> <p>1 be subject to a written response. And the second</p> <p>2 30(b) notice is going to be numbers 1, 2, 3, 4, 5,</p> <p>3 9, 10, 11, and 18.</p> <p>4 Here you go, Counsel. Here's a copy of that</p> <p>5 e-mail that I sent you.</p> <p>6 MR. RICARD: That's correct.</p> <p>7 MR. FULLER: Okay.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. So, Mr. Schoen, what your counsel and I</p> <p>10 did for you is hopefully shortened the amount of</p> <p>11 time that you have to sit here today.</p> <p>12 A. Thank you.</p> <p>13 Q. You're more than welcome. And, again, I</p> <p>14 appreciate you coming and being here for us.</p> <p>15 Now, you mentioned that you don't really</p> <p>16 operate. What is your role currently with PSI?</p> <p>17 What do you do on a day-to-day basis?</p> <p>18 A. I'm the president. I do pretty much</p> <p>19 everything. I -- okay.</p> <p>20 Q. Give me, if you will, just a thumbnail</p> <p>21 sketch of what your average day is these days.</p> <p>22 A. We're going through constant changes in</p> <p>23 our software, so I'm reviewing and giving some</p> <p>24 ideas on software changes. I'm hiring people</p>

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<p style="text-align: right;">Page 18</p> <p>1 because we need them at this time of year. I</p> <p>2 don't know. It just -- I don't have any more</p> <p>3 fixed responsibilities, as far as I do whatever</p> <p>4 has to be done when it has to be done.</p> <p>5 Q. Fair enough. Fair enough. I get that.</p> <p>6 I get that.</p> <p>7 Now, Prescription Supply is a registrant</p> <p>8 with the DEA related to controlled substances,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And as such, you take on certain</p> <p>12 statutory and regulatory obligations; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And we're going to mark as Plaintiff's</p> <p>16 Exhibit Number 4 --</p> <p>17 MR. FULLER: It's going to be 101, Gina.</p> <p>18 - - -</p> <p>19 (PSI-Schoen Exhibit 4 marked.)</p> <p>20 - - -</p> <p>21 BY MR. FULLER:</p> <p>22 Q. Now, I'm going to assume that you are</p> <p>23 somewhat familiar, Mr. Schoen, with the Controlled</p> <p>24 Substances Act; is that correct?</p>	<p style="text-align: right;">Page 20</p> <p>1 that this seeks any legal conclusions?</p> <p>2 MR. FULLER: Sure.</p> <p>3 BY MR. FULLER:</p> <p>4 Q. And you'll see up there to the upper</p> <p>5 left, Mr. Schoen, that -- the seal of the United</p> <p>6 States Congress, correct?</p> <p>7 A. I do.</p> <p>8 Q. And this is part of the United States</p> <p>9 Code, which is the statutes promulgated by the</p> <p>10 federal government. And you'll see this is</p> <p>11 Chapter 13. Drug Abuse, Prevention, and Control.</p> <p>12 Do you see that? If you look on the</p> <p>13 screen right in front of you, it's highlighted.</p> <p>14 A. Okay. Yes.</p> <p>15 Q. Okay. The screen is sort of like your</p> <p>16 cheat sheet.</p> <p>17 A. All right.</p> <p>18 Q. It will help get you right where I'm</p> <p>19 looking, too, okay? And you're aware that that is</p> <p>20 part of the Controlled Substances Act?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And this is Section 801, and it</p> <p>23 says the Congressional findings and declarations</p> <p>24 related to controlled substances. "The Congress</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes, in general.</p> <p>2 THE VIDEOGRAPHER: Could the person on</p> <p>3 the phone -- could you guys please put your phone</p> <p>4 on mute, because we can now hear you in the</p> <p>5 background. Please.</p> <p>6 MR. FULLER: I'm sorry. I wasn't paying</p> <p>7 attention to it.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. And what you have -- and you have a hard</p> <p>10 copy, which has been marked as an exhibit. You</p> <p>11 should also have a digital copy in that screen</p> <p>12 right in front of you. And then there's a big</p> <p>13 screen up to your right as well. And you can look</p> <p>14 at any or all of them, okay?</p> <p>15 And what's going to happen is, as I go</p> <p>16 through some of this document, the one in front of</p> <p>17 you on the digital copy, Mr. Schoen, is going to</p> <p>18 be highlighted as to wherever I'm referring to to</p> <p>19 help direct you to certain areas. Okay?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 MR. RICARD: Before you start on this,</p> <p>23 can we, notwithstanding any form objections, agree</p> <p>24 to a standing objection to any -- to the extent</p>	<p style="text-align: right;">Page 21</p> <p>1 makes the following findings and declarations."</p> <p>2 Could you read, in all fairness, the</p> <p>3 first declaration that they made to us,</p> <p>4 Mr. Schoen.</p> <p>5 A. "Many of the drugs included within this</p> <p>6 subchapter have a useful and legitimate medical</p> <p>7 purpose and are necessary to maintain the health</p> <p>8 and general welfare of the American people."</p> <p>9 Q. And does PSI accept that declaration by</p> <p>10 U.S. Congress as being true?</p> <p>11 A. Yes.</p> <p>12 Q. And many of the drugs that you deliver,</p> <p>13 Schedules II through Vs, do have legitimate</p> <p>14 medical purposes --</p> <p>15 A. Yes.</p> <p>16 Q. -- is that correct?</p> <p>17 And another thing, Mr. Schoen, is we</p> <p>18 go -- if you will let me finish my question</p> <p>19 completely before you answer -- in normal</p> <p>20 conversation when you know what I'm going to ask,</p> <p>21 we usually start answering each other, but because</p> <p>22 of Madam Court Reporter and we want to make sure</p> <p>23 the record is clear, you let me finish.</p> <p>24 Your counsel may object from time to</p>

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<p style="text-align: right;">Page 22</p> <p>1 time. Let him get out his objection. And then</p> <p>2 you can answer. And I'll certainly try to let you</p> <p>3 finish your answer before I ask another question.</p> <p>4 Okay?</p> <p>5 A. Yes.</p> <p>6 Q. Now, if you will, read the second</p> <p>7 declaration to us, please.</p> <p>8 A. "The illegal importation, manufacture,</p> <p>9 distribution, and possession and improper use of</p> <p>10 controlled substances has a substantial and</p> <p>11 detrimental effect on the health and general</p> <p>12 welfare of the American people."</p> <p>13 Q. And does PSI as a registrant agree and</p> <p>14 accept that declaration by the U.S. Congress?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 Q. That's him stating his objection for the</p> <p>17 record, but you can go ahead and answer the</p> <p>18 question.</p> <p>19 A. Yes.</p> <p>20 Q. Now, with one caveat. The only time you</p> <p>21 wouldn't answer is if he tells you "Hey,</p> <p>22 Mr. Schoen, don't answer that question." Okay?</p> <p>23 A. I'm afraid I didn't understand that.</p> <p>24 Q. I'm sorry. The only time you wouldn't</p>	<p style="text-align: right;">Page 24</p> <p>1 controlled substances.</p> <p>2 Do you see that there?</p> <p>3 A. Yes.</p> <p>4 Q. And PSI is aware that there are several</p> <p>5 different schedules for controlled substances</p> <p>6 depending on certain factors that relate to that</p> <p>7 particular medication, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, I'm going to tell you that most of</p> <p>10 today we're going to be talking about what is</p> <p>11 called Schedule IIs. And you know what those are;</p> <p>12 is that right?</p> <p>13 A. Yes.</p> <p>14 Q. PSI is also a distributor of Schedule</p> <p>15 IIs; are they not?</p> <p>16 A. Yes.</p> <p>17 Q. Tell us what -- under Schedule II, what</p> <p>18 the three factors are, and start with factor A, if</p> <p>19 you would.</p> <p>20 A. "The drug or other substance has a high</p> <p>21 potential of abuse.</p> <p>22 "(B) The drug or other substance has a</p> <p>23 currently accepted medical use in treatment in the</p> <p>24 United States or is currently accepted medical use</p>
<p style="text-align: right;">Page 23</p> <p>1 answer the question is if counsel tells you not to</p> <p>2 answer.</p> <p>3 A. Oh, okay.</p> <p>4 Q. Fair enough?</p> <p>5 A. Fair enough.</p> <p>6 Q. Okay. Now, PSI -- you sitting here as</p> <p>7 PSI are a distributor, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And Section 2 here refers to the --</p> <p>10 amongst other things, the illegal distribution?</p> <p>11 A. Yes.</p> <p>12 Q. And you would agree as PSI that the</p> <p>13 illegal distribution of controlled substances have</p> <p>14 a substantial and detrimental effect on the health</p> <p>15 and general welfare of the American people,</p> <p>16 correct?</p> <p>17 MR. RICARD: Objection to form.</p> <p>18 A. Yes.</p> <p>19 Q. Okay. If you'll turn to the next page,</p> <p>20 you'll see again the -- on the upper left, a</p> <p>21 symbol of the great U.S. Congress, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And it's still Chapter 13, but this is</p> <p>24 Section 812, and it deals with schedules of</p>	<p style="text-align: right;">Page 25</p> <p>1 for severe -- with severe restrictions.</p> <p>2 "Abuse of the drug or other substance</p> <p>3 may lead to severe psychological or physical</p> <p>4 dependency."</p> <p>5 Q. And PSI accepts those as all the</p> <p>6 requirements for Schedule II drugs, correct?</p> <p>7 MR. RICARD: Object to form.</p> <p>8 A. Yes.</p> <p>9 Q. Now -- and let's talk about it just for</p> <p>10 a second. The reason we have these different</p> <p>11 schedules, as PSI is well aware, is because there</p> <p>12 are some medications out there that have -- while</p> <p>13 legitimate purposes, if they go unchecked, can be</p> <p>14 very dangerous, correct?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. And one of the things that we want to</p> <p>18 ensure -- and I say "we." One of the things that</p> <p>19 PSI wants to ensure is that we're dealing with</p> <p>20 these dangerous drugs in the right way, that we're</p> <p>21 preventing them from getting into the illicit</p> <p>22 market?</p> <p>23 MR. RICARD: Objection to form.</p> <p>24 Q. Correct?</p>

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<p>1 A. Yes.</p> <p>2 Q. Okay. If you'll turn to the next page,</p> <p>3 and you see this is Section 821 of Chapter 13.</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. Okay. And this deals with rules and</p> <p>7 regulations, and it says, "The Attorney General is</p> <p>8 authorized to promulgate rules and regulations and</p> <p>9 to charge reasonable fees related to the</p> <p>10 registration and control of the manufacture,</p> <p>11 distribution, and dispensing of controlled</p> <p>12 substances and listed chemicals."</p> <p>13 Does PSI accept that the Attorney</p> <p>14 General is the one with the authority to regulate</p> <p>15 its industry?</p> <p>16 A. Yes.</p> <p>17 MR. RICARD: Objection to form.</p> <p>18 Q. And if you'll turn to the final page, I</p> <p>19 think, of this exhibit. We're at Section 823,</p> <p>20 registration requirements.</p> <p>21 Do you see that there?</p> <p>22 A. I do.</p> <p>23 Q. And then -- and, again -- and I may not</p> <p>24 have stated this in the beginning. These are</p>	<p>1 diversion; is that correct?</p> <p>2 MR. RICARD: Objection to form.</p> <p>3 A. Yes.</p> <p>4 Q. Tell us, tell the jury, why we want to</p> <p>5 prevent diversion of controlled substances.</p> <p>6 A. Well, as it states, we -- it can be</p> <p>7 dangerous. People can die. People can have bad</p> <p>8 effects, and they can be abused. None of that is</p> <p>9 something that we want to happen. We want the</p> <p>10 good effects, not the bad effects.</p> <p>11 Q. Right. And we're talking about</p> <p>12 diversion. Just so we're on the same page, we're</p> <p>13 talking about diversion, the non-proper medical</p> <p>14 use, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And when we have increased diversion,</p> <p>17 we're likely to have increased abuse and addiction</p> <p>18 as you mentioned, right?</p> <p>19 MR. RICARD: Objection to form.</p> <p>20 A. Yes.</p> <p>21 Q. And when we're talking about that, we're</p> <p>22 talking about the general public at large, our</p> <p>23 children and our communities, correct?</p> <p>24 A. Yes.</p>
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<p>1 portions of the regs -- or excuse me -- portions</p> <p>2 of the code that I've pulled out, so it doesn't</p> <p>3 have the whole code. I only pulled out what I</p> <p>4 needed for the purposes of this deposition, okay,</p> <p>5 Mr. Schoen? I just want you to understand it's</p> <p>6 not every section, and that's why this section</p> <p>7 starts with (b). Fair enough?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. It says, "In determining the</p> <p>10 public interest, the following factors should be</p> <p>11 considered: The maintenance of effective controls</p> <p>12 against diversion of particular controlled</p> <p>13 substances into other than legitimate medical,</p> <p>14 scientific, and industrial channels."</p> <p>15 Do you see that there?</p> <p>16 A. Yes.</p> <p>17 Q. And PSI agrees that it has an obligation</p> <p>18 to maintain effective controls against diversion</p> <p>19 when it comes to controlled substances, correct?</p> <p>20 MR. RICARD: Objection to form.</p> <p>21 A. Yes.</p> <p>22 Q. Now -- and I'm asking you as PSI. When</p> <p>23 we see effective controls against diversion, that</p> <p>24 means the systems in place and controls to prevent</p>	<p>1 Q. And you understand that the Controlled</p> <p>2 Substances Act that was enacted back in October of</p> <p>3 1970 was Congress' attempt to try to keep our</p> <p>4 children and our community safe from these</p> <p>5 controlled substances?</p> <p>6 MR. RICARD: Objection to form.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Now, Mr. Schoen, your family has</p> <p>9 been in the business a very long time. When did</p> <p>10 you first start working in the industry? Probably</p> <p>11 as a little kid, huh?</p> <p>12 A. I'm afraid that's true, yes. 1958. As</p> <p>13 an eighth grader, I tore down some shelving.</p> <p>14 Q. Wow.</p> <p>15 A. Yes. I've been active somewhat most of</p> <p>16 my life.</p> <p>17 Q. So you literally started at the bottom</p> <p>18 and worked your way up, huh?</p> <p>19 A. I certainly have. I've worked roughly</p> <p>20 every position.</p> <p>21 Q. Holy cow. Well, good for you.</p> <p>22 I'm going to now -- and that was</p> <p>23 actually even before the Controlled Substances Act</p> <p>24 was enacted, correct?</p>

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<p style="text-align: right;">Page 30</p> <p>1 A. Well, yes. I was in the Army '68 to</p> <p>2 '69.</p> <p>3 Q. Okay. And when you got out of the Army,</p> <p>4 did you come back home to the family business, or</p> <p>5 did you go somewhere else first?</p> <p>6 A. I was in graduate school for a short</p> <p>7 time.</p> <p>8 Q. Where at?</p> <p>9 A. University of Minnesota.</p> <p>10 Q. Okay. As long as it wasn't OSU. Me and</p> <p>11 Mr. Craig, at the end of the table, have some</p> <p>12 issues with OSU.</p> <p>13 MR. PELINI: We'll stipulate to that,</p> <p>14 Mr. Fuller.</p> <p>15 MR. FULLER: Thank you. Thank you,</p> <p>16 Counsel.</p> <p>17 BY MR. FULLER:</p> <p>18 Q. Now, Mr. Schoen, you're not an OSU fan,</p> <p>19 are you?</p> <p>20 A. Is that really a --</p> <p>21 Q. No, no. You can plead the Fifth on that</p> <p>22 one.</p> <p>23 ---</p> <p>24 (PSI-Schoen Exhibit 5 marked.)</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. FULLER: Gina, if you could go to</p> <p>2 page -- you're already there. Page 5.</p> <p>3 THE WITNESS: I can't read that either.</p> <p>4 Q. Well, see if this helps. How about now?</p> <p>5 A. That helps, yeah.</p> <p>6 Q. It helps me, too. I'm getting to that</p> <p>7 age where my eyesight is going as well.</p> <p>8 So, Mr. Schoen, this is the legislative</p> <p>9 history and findings related to the Controlled</p> <p>10 Substances Act, the things Congress did when it</p> <p>11 was passing the act and some of the reasoning</p> <p>12 behind it, and we're not going to go through the</p> <p>13 whole thing. We're going to go through certain</p> <p>14 portions of it, if that's okay. All right?</p> <p>15 A. Yes.</p> <p>16 Q. All right. And this says, "Title 2:</p> <p>17 Control and Enforcement." It says, "This bill</p> <p>18 provides for the control by the Justice Department</p> <p>19 of problems related to drug abuse through</p> <p>20 registration of manufacturers, wholesalers,</p> <p>21 retailers, and all others in the legitimate</p> <p>22 chain -- excuse me -- legitimate distribution</p> <p>23 chain that makes transactions outside the</p> <p>24 legitimate distribution chain illegal."</p>
<p style="text-align: right;">Page 31</p> <p>1 ---</p> <p>2 Q. What I have marked as Exhibit</p> <p>3 Number 5 -- and you have in front of you -- is the</p> <p>4 legislative findings and history of the Controlled</p> <p>5 Substances Act.</p> <p>6 A. All right.</p> <p>7 Q. And I'm going to ask that you read all</p> <p>8 211 pages. No. I'm kidding. I'm kidding.</p> <p>9 And you're welcome to follow along in</p> <p>10 the document. But, again, in front of you,</p> <p>11 Mr. Schoen, is a digital copy.</p> <p>12 A. To be honest, I can't read the digital</p> <p>13 copy.</p> <p>14 Q. Oh. Well, now, the parts I read from do</p> <p>15 blow up.</p> <p>16 A. Okay.</p> <p>17 Q. So that may help, okay?</p> <p>18 A. Yes.</p> <p>19 MR. RICARD: Mike, before you start --</p> <p>20 MR. FULLER: Yes, sir.</p> <p>21 MR. RICARD: -- I'd just like to note a</p> <p>22 standing objection to any questions pertaining to</p> <p>23 this document, as it calls for a legal conclusion.</p> <p>24 MR. FULLER: Fair enough.</p>	<p style="text-align: right;">Page 33</p> <p>1 Does PSI concur that that is the goal</p> <p>2 behind the Controlled Substances Act?</p> <p>3 MR. RICARD: Objection to form.</p> <p>4 MR. FULLER: I'm sorry.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And PSI understands that the way</p> <p>7 the Controlled Substances Act works is that</p> <p>8 everybody in that chain of distribution starting</p> <p>9 from the manufacturer all the way down to the</p> <p>10 pharmacy has to be registered with the Department</p> <p>11 of Justice via the DEA?</p> <p>12 A. Yes.</p> <p>13 Q. And, again, as we mentioned earlier, PSI</p> <p>14 is one of those registrants?</p> <p>15 A. Yes.</p> <p>16 Q. Does PSI also agree that transactions</p> <p>17 outside of this legitimate chain or a</p> <p>18 noncompliance with the Controlled Substances Act</p> <p>19 would be illegal, meaning breaking the law?</p> <p>20 MR. RICARD: Objection to form.</p> <p>21 A. Yes.</p> <p>22 Q. If you go to page 8.</p> <p>23 MR. RICARD: For the record, we're</p> <p>24 looking at the Bates number 89, not the Westlaw?</p>

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<p>1 MR. FULLER: I'm sorry. Yes, sir.</p> <p>2 Upper right-hand corner of the page.</p> <p>3 BY MR. FULLER:</p> <p>4 Q. Mr. Schoen, not the page number on the</p> <p>5 bottom. I apologize. It's the one on the upper</p> <p>6 right-hand side --</p> <p>7 A. Okay.</p> <p>8 Q. -- which looks like they're one page off</p> <p>9 from each other. Sorry. It can be confusing. I</p> <p>10 apologize.</p> <p>11 On page 8, it says, "This bill is</p> <p>12 designed to improve the administration and</p> <p>13 regulation of the manufacturing, distribution, and</p> <p>14 dispensing of controlled substances by providing</p> <p>15 for a closed system of drug distribution for</p> <p>16 legitimate handlers of such drugs."</p> <p>17 Do you have an understanding,</p> <p>18 Mr. Schoen, of what it means by "closed system"?</p> <p>19 A. I believe so.</p> <p>20 Q. And that is that there are limited</p> <p>21 participants, right?</p> <p>22 A. Yes.</p> <p>23 Q. Not just anybody can do what PSI does?</p> <p>24 A. Yes.</p>	<p>1 A. Correct.</p> <p>2 Q. It's given certain -- it's given certain</p> <p>3 persons a specific right to do that, for example,</p> <p>4 PSI, and you agree with that, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Now, if you go to page 11 as numbered in</p> <p>7 the upper right-hand corner. It says, "The price</p> <p>8 for participation in this traffic should be</p> <p>9 prohibitive. It should be made too dangerous to</p> <p>10 be attractive."</p> <p>11 And there this code section or this code</p> <p>12 of this Congressional history is talking about the</p> <p>13 illegal traffic. And PSI agrees that what</p> <p>14 Congress is trying to do is trying to make</p> <p>15 penalties for the illegal market so significant</p> <p>16 that people won't want to take part in the illicit</p> <p>17 market, correct?</p> <p>18 A. Yes.</p> <p>19 MR. RICARD: Objection to form.</p> <p>20 A. Yes.</p> <p>21 MR. RICARD: Tom, give me a second to</p> <p>22 object if I need to.</p> <p>23 THE WITNESS: Yes.</p> <p>24 MR. RICARD: Thanks.</p>
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<p>1 Q. You have a special ticket or</p> <p>2 registration to be a manufacturer, distributor, or</p> <p>3 a pharmacy, correct?</p> <p>4 MR. RICARD: Objection to form.</p> <p>5 A. We're a distributor, yes.</p> <p>6 Q. Right. It goes on to say that "Such a</p> <p>7 closed system should significantly reduce the</p> <p>8 widespread diversion of these drugs out of</p> <p>9 legitimate channels into the illicit market, while</p> <p>10 at the same time providing the legitimate drug</p> <p>11 industry with a unified approach to narcotic and</p> <p>12 dangerous drug control."</p> <p>13 Does PSI understand and agree that this</p> <p>14 closed system is probably one of the best ways to</p> <p>15 try to prevent diversion?</p> <p>16 A. Yes.</p> <p>17 Q. And that what Congress has done here is</p> <p>18 it's basically done away with, to some degree,</p> <p>19 capitalism. It says not anybody can participate</p> <p>20 in this market. For example, Paul, your counsel,</p> <p>21 and myself, we can't go out today and start buying</p> <p>22 and selling controlled substances, at least not</p> <p>23 legally, correct?</p> <p>24 MR. RICARD: Objection to form.</p>	<p>1 BY MR. FULLER:</p> <p>2 Q. And you have seen that over the history</p> <p>3 of your operation in this industry, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Not only with illegal doctors getting</p> <p>6 arrested and fined and put in prison, but also</p> <p>7 with other wholesale distributors, correct?</p> <p>8 MR. RICARD: Objection to form.</p> <p>9 A. Yes.</p> <p>10 Q. For example, you know that Cardinal and</p> <p>11 McKesson both had agreements with the federal</p> <p>12 government to pay certain fines, and those fines</p> <p>13 have gotten larger over time, correct?</p> <p>14 MR. RICARD: Objection to form.</p> <p>15 MS. MONAGHAN: Objection.</p> <p>16 A. I'm aware that they've been fined, yes.</p> <p>17 Q. Okay. And are you aware that those</p> <p>18 fines have increased over time?</p> <p>19 A. Yes.</p> <p>20 MR. BUSHUR: Objection; form.</p> <p>21 Q. And does PSI agree that as it relates to</p> <p>22 the illegal traffic, that the fines should be high</p> <p>23 so we can try to prevent any potential</p> <p>24 diversion from occurring?</p>

10 (Pages 34 to 37)

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<p style="text-align: right;">Page 38</p> <p>1 MR. RICARD: Objection to form.</p> <p>2 A. Yes.</p> <p>3 Q. If you go to page 34, Mr. Schoen. And</p> <p>4 if you can -- and, again, if you can see it,</p> <p>5 Mr. Schoen, can you read that out loud to us?</p> <p>6 A. "The illegal importation, manufacture,</p> <p>7 distribution, and possession and improper use of</p> <p>8 controlled substances has a substantial</p> <p>9 detrimental effect on the public health and</p> <p>10 general welfare."</p> <p>11 Q. And does PSI agree and accept that</p> <p>12 Congressional finding as well?</p> <p>13 A. Yes.</p> <p>14 Q. And does PSI in its operations strive to</p> <p>15 prevent any illegal distribution of controlled</p> <p>16 substances?</p> <p>17 A. Yes.</p> <p>18 Q. And when we're talking about the general</p> <p>19 effect on the public's health and welfare, we're</p> <p>20 talking about the impact it can have on our</p> <p>21 children and our communities, correct?</p> <p>22 A. Among others, yes.</p> <p>23 Q. Because what you do is you distribute</p> <p>24 these controlled substances into different</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Now, up in the upper left and upper</p> <p>2 right respectfully we now have the seals of the</p> <p>3 Department of Justice who you testified earlier is</p> <p>4 the ones that regulate this industry that you</p> <p>5 operate in, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And on the right, we have United States</p> <p>8 Justice Department, Drug Enforcement</p> <p>9 Administration, or the DEA, who carries out that</p> <p>10 function on behalf of the Department of Justice,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And that's who you're registered with;</p> <p>14 is that right?</p> <p>15 A. Yes.</p> <p>16 Q. And you see it's Chapter 2, Part 1301,</p> <p>17 and it deals with security requirements.</p> <p>18 Do you see that there?</p> <p>19 A. Oh, yes. Yes.</p> <p>20 Q. And it says under Section 1301.74,</p> <p>21 "Other security controls for non-practitioners,</p> <p>22 narcotic treatment programs, and compounders for</p> <p>23 narcotic treatment programs."</p> <p>24 And you see letter b down there?</p>
<p style="text-align: right;">Page 39</p> <p>1 pharmacies and doctors' offices and drugstores;</p> <p>2 and for your company, mainly in the Ohio area,</p> <p>3 correct?</p> <p>4 MR. RICARD: Objection to form.</p> <p>5 A. We distribute in a number of states.</p> <p>6 Q. Sure.</p> <p>7 A. Okay. But, yes, in general, yes, that's</p> <p>8 correct.</p> <p>9 Q. And we'll get into actually where and</p> <p>10 all that detail down the road.</p> <p>11 A. Okay.</p> <p>12 Q. So, Mr. Schoen, what we're going to do</p> <p>13 is mark next as Plaintiff's Exhibit 6 part of the</p> <p>14 Code of Federal Regulations.</p> <p>15 MR. RICARD: Same objection to legal</p> <p>16 conclusions, Mike.</p> <p>17 MR. FULLER: Sure.</p> <p>18 ---</p> <p>19 (PSI-Schoen Exhibit 6 marked.)</p> <p>20 ---</p> <p>21 BY MR. FULLER:</p> <p>22 Q. It's 21 C.F.R. 1301.74.</p> <p>23 Do you see that, Mr. Schoen?</p> <p>24 A. I see it.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. Yes.</p> <p>2 Q. Where it says, "The registrant shall</p> <p>3 design and operate a system to disclose to the</p> <p>4 registrant suspicious orders of controlled</p> <p>5 substances. The registrant shall inform the Field</p> <p>6 Division Office of the Administration in his area</p> <p>7 of suspicious orders when discovered by the</p> <p>8 registrant. Suspicious orders include orders of</p> <p>9 unusual size, orders deviating substantially from</p> <p>10 a normal pattern, and orders of unusual</p> <p>11 frequency."</p> <p>12 You are familiar with this regulation as</p> <p>13 it pertains to suspicious orders, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And PSI is aware that it has to comply</p> <p>16 with this regulation as it relates to suspicious</p> <p>17 orders?</p> <p>18 A. Yes.</p> <p>19 Q. When we say "suspicious orders," it's</p> <p>20 PSI's understanding that we're talking about</p> <p>21 orders that may be suspicious for potential</p> <p>22 diversion, correct?</p> <p>23 MR. RICARD: Objection to form.</p> <p>24 A. Yes. It may be, yes.</p>

11 (Pages 38 to 41)

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<p style="text-align: right;">Page 42</p> <p>1 Q. And it's not that PSI has to know for</p> <p>2 sure they're being diverted. You just have to</p> <p>3 have a suspicion, correct?</p> <p>4 MR. RICARD: Objection to form.</p> <p>5 A. I would guess that's true, yeah.</p> <p>6 Q. Well --</p> <p>7 A. I mean, we -- you know, we -- go ahead.</p> <p>8 Q. Sure. And I don't want you to guess,</p> <p>9 okay? That's what I don't want you to do here</p> <p>10 today. I want to know what you know. And if you</p> <p>11 don't know, I want you to tell us that, okay?</p> <p>12 When we're talking about suspicious</p> <p>13 orders, we have to know -- as a registrant, as</p> <p>14 PSI, we have to know suspicious of what, correct?</p> <p>15 A. Correct.</p> <p>16 Q. And we know it's suspicious of diversion</p> <p>17 or illicit activity, correct?</p> <p>18 A. Yes.</p> <p>19 MR. RICARD: Objection to form.</p> <p>20 Q. And we know as PSI that the DEA has told</p> <p>21 us that we can look for orders of unusual size,</p> <p>22 orders deviating substantially from a normal</p> <p>23 pattern, and orders of unusual frequency as some</p> <p>24 of the factors to look to, correct?</p>	<p style="text-align: right;">Page 44</p> <p>1 doctor or somebody else in the distribution chain</p> <p>2 needs to be shut down, right?</p> <p>3 MR. RICARD: Objection to form.</p> <p>4 A. Yes.</p> <p>5 Q. And unless we're telling them and</p> <p>6 providing them that information as a registrant,</p> <p>7 it makes it much harder on them to do their jobs,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So one of the ways that we're trying to</p> <p>11 keep our -- again, our communities and our</p> <p>12 children safe is by putting upon the registrant,</p> <p>13 such as PSI, the obligation to report suspicious</p> <p>14 orders --</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 Q. -- correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now, we're going to talk about it</p> <p>19 in more detail later, but you're aware that there</p> <p>20 is a know your customer requirement, due diligence</p> <p>21 that has to be done, when you're dealing with</p> <p>22 suspicious orders and controlled substances as</p> <p>23 well, correct?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 MR. RICARD: Objection to form.</p> <p>2 A. Yes.</p> <p>3 Q. And, again, when we're talking about</p> <p>4 suspicious, it's suspicious of diversion or some</p> <p>5 sort of illicit activity because that is what</p> <p>6 you're trying to prevent as a wholesale</p> <p>7 distributor?</p> <p>8 MR. RICARD: Same objection.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Now, let's go back to that part</p> <p>11 where we had that little hiccup a moment ago.</p> <p>12 There's nothing in this regulation that</p> <p>13 says PSI has to determine that they're actually</p> <p>14 being diverted, does it?</p> <p>15 A. No.</p> <p>16 Q. It's the mere suspicion of diversion</p> <p>17 that should be reported, correct?</p> <p>18 MR. RICARD: Objection to form.</p> <p>19 A. Yes.</p> <p>20 Q. And there's a reason for that, right?</p> <p>21 And the reason is because we want to get those</p> <p>22 involved, the DEA, if there's even the potential</p> <p>23 for diversion so that they can do their</p> <p>24 investigation to determine whether a pharmacy or a</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. And you may find this interesting. So I</p> <p>2 will fully admit I'm a little bit of a book nerd,</p> <p>3 okay? And if you -- in studying history in</p> <p>4 college, if you look back -- well, strike that.</p> <p>5 Let me start with another premise.</p> <p>6 You would agree that we are in the</p> <p>7 middle of an opioid epidemic in this country,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And if you go back and look</p> <p>11 through history, it's not the first time that</p> <p>12 we've had opioid issues in this world. If you</p> <p>13 think back, back at the late 18th century, early</p> <p>14 19th, you had the opium wars going on --</p> <p>15 A. Yes.</p> <p>16 Q. -- on the other side of the world.</p> <p>17 A. In China, yes.</p> <p>18 Q. And then I don't know if you're familiar</p> <p>19 with the Harrison Act that was passed in the early</p> <p>20 1900s.</p> <p>21 A. I'm not.</p> <p>22 Q. So I went and pulled the Congressional</p> <p>23 Record from the Harrison Act, and this is going to</p> <p>24 be -- let me grab it. And I told you I'm a little</p>

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<p style="text-align: right;">Page 46</p> <p>1 bit of a book nerd. I really mean I'm a little</p> <p>2 bit of a book nerd.</p> <p>3 So -- and tell me -- and, again, not to</p> <p>4 pick on you at all, but have you ever heard that</p> <p>5 history tends to repeat itself?</p> <p>6 A. Yes.</p> <p>7 Q. And if we look back through time, it</p> <p>8 seems to be true, doesn't it?</p> <p>9 A. Yes.</p> <p>10 Q. Now, the Harrison Act, that was</p> <p>11 legislation that was passed back in the early</p> <p>12 1900s, and this is a legislative history and</p> <p>13 another tidbit -- I'm not really going to go into</p> <p>14 with you, but Donald McKesson actually spoke at</p> <p>15 this legislative hearing.</p> <p>16 Do you know who Donald McKesson is?</p> <p>17 A. I certainly know what McKesson is, yes.</p> <p>18 Q. He is one of the founders of that</p> <p>19 company that now exists still today.</p> <p>20 A. Yes.</p> <p>21 Q. The Harrison Act was being considered</p> <p>22 back during the early 1900s because we were having</p> <p>23 a problem with opium dens in the United States,</p> <p>24 and there wasn't a way to control it. And the</p>	<p style="text-align: right;">Page 48</p> <p>1 says, "I would like to point out, as is shown by</p> <p>2 my report, that this country -- that in this</p> <p>3 country, we are importing over 400,000 pounds of</p> <p>4 opium and using it. Over 75 percent of that</p> <p>5 opium, gentlemen, is manufactured into morphine."</p> <p>6 And, Mr. Schoen, you know what morphine</p> <p>7 is, correct?</p> <p>8 A. I do.</p> <p>9 Q. And it's another type of pain</p> <p>10 medication?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. "And I have reliable information</p> <p>13 that 75 percent to 90 percent of that morphine is</p> <p>14 used outside of legitimate medical channels,"</p> <p>15 which would be the equivalent to our illicit</p> <p>16 market today, correct?</p> <p>17 MR. RICARD: Objection to form.</p> <p>18 A. Apparently, yes.</p> <p>19 Q. And in the next section, "In Germany, as</p> <p>20 I have pointed out in my report, with a population</p> <p>21 nearly equal to that of the United States, they</p> <p>22 have a net consumption of 16,000 pounds of opium</p> <p>23 against 400,000 pounds in this country."</p> <p>24 Seems shocking, doesn't it, Mr. Schoen?</p>
<p style="text-align: right;">Page 47</p> <p>1 Harrison Act is actually a tax-based act, because</p> <p>2 way back then, the great U.S. Congress didn't have</p> <p>3 the expansive powers of the commerce clause to do</p> <p>4 anything they wanted to. They could only do</p> <p>5 things they were specifically given power, and one</p> <p>6 was tax. So this is the Congressional history</p> <p>7 related to that.</p> <p>8 ---</p> <p>9 (PSI-Schoen Exhibit 7 marked.)</p> <p>10 ---</p> <p>11 Q. And we're just going to touch on a</p> <p>12 couple sections. Page 25 -- and before I actually</p> <p>13 start reading that with you, Mr. Schoen, are you</p> <p>14 aware that the U.S. uses over 95 percent of the</p> <p>15 opium produced in the entire world?</p> <p>16 A. No, I'm not aware of that.</p> <p>17 Q. Okay. Would it surprise you to know</p> <p>18 that the U.S. uses over 95 percent of the opium</p> <p>19 produced in the entire world?</p> <p>20 A. It does surprise me that 95 percent,</p> <p>21 yes.</p> <p>22 Q. And, remember, history repeats itself.</p> <p>23 So let's take a look. And this is a Mr. Wright</p> <p>24 speaking to our United States Congress. And he</p>	<p style="text-align: right;">Page 49</p> <p>1 A. Yes. I mean, it's --</p> <p>2 Q. Now, let's go to page 29. And many of</p> <p>3 these people speaking during this Congressional</p> <p>4 hearing, Mr. Schoen, were members of the industry,</p> <p>5 for example, Mr. McKesson.</p> <p>6 And here on 29, again, the highlighted</p> <p>7 area, it says, "Gentlemen, it is the manufacturers</p> <p>8 and wholesalers, the people higher up, that sell</p> <p>9 these drugs promiscuously that we want to reach</p> <p>10 and must reach if we ever hope to break up this</p> <p>11 traffic. Scotch the snake at its lair."</p> <p>12 Have you ever heard that saying before,</p> <p>13 "Scotch the snake at its lair"?</p> <p>14 A. Never.</p> <p>15 Q. I looked it up. It's a quote from</p> <p>16 Macbeth. It means go to the home of the snake and</p> <p>17 kill it. Okay?</p> <p>18 Now, here it's talking about</p> <p>19 manufacturers and wholesalers selling drugs</p> <p>20 promiscuously. And you have an understanding of</p> <p>21 what that means, correct?</p> <p>22 A. Outside the appropriate channels, I</p> <p>23 think.</p> <p>24 Q. Sure. And you are aware that -- I'm</p>



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<p style="text-align: right;">Page 50</p> <p>1 going to exclude PSI from this.</p> <p>2 You are aware that other distributors</p> <p>3 have sold drugs outside of the legitimate</p> <p>4 channels --</p> <p>5 MR. RICARD: Objection to form.</p> <p>6 Q. -- correct?</p> <p>7 A. I really -- I really don't know that</p> <p>8 they have, no. I mean, it's just because I don't</p> <p>9 know.</p> <p>10 Q. Sure. I will tell you with the second</p> <p>11 memorandum of agreements that both McKesson and</p> <p>12 Cardinal entered with the United States</p> <p>13 government, that they admitted to breaking the</p> <p>14 law.</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 Objection to scope.</p> <p>17 Q. If that is the case, then you could</p> <p>18 agree then that others have acted promiscuously in</p> <p>19 this industry, correct?</p> <p>20 MR. RICARD: Same objection.</p> <p>21 A. Apparently, yes.</p> <p>22 Q. Let's go on. "The poor unfortunate</p> <p>23 'dope fiend' is more sinned against than sinning.</p> <p>24 Had the law provided sufficient safeguards around</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. And this is way back from 1910. It's</p> <p>2 pretty impressive how history repeats itself,</p> <p>3 isn't it?</p> <p>4 A. Yes.</p> <p>5 Q. It goes on to say, "Since he won't do it</p> <p>6 on moral grounds, it becomes the duty of the</p> <p>7 government to compel him to do it by law."</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. And it's the same thing with the</p> <p>11 enactment of the Controlled Substances Act, right?</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 Q. We needed governmental safeguards out</p> <p>14 there to ensure that the people in the supply</p> <p>15 chain were doing the right thing, correct?</p> <p>16 A. Yes.</p> <p>17 Q. The next section reads, "Throw on the</p> <p>18 limelight of publicity such as this act provides.</p> <p>19 Make every man that handles these drugs</p> <p>20 responsible for his actions so that we have a</p> <p>21 record of the transactions from the time of</p> <p>22 manufacture until it reaches the consumer."</p> <p>23 And, again, that is why the Controlled</p> <p>24 Substances Act is created, correct?</p>
<p style="text-align: right;">Page 51</p> <p>1 the sale and distribution of these drugs, he would</p> <p>2 never have acquired such a habit."</p> <p>3 Do you see that there, Mr. Schoen?</p> <p>4 A. I see it.</p> <p>5 Q. And does PSI agree that the system as</p> <p>6 set up with the Controlled Substances Act is</p> <p>7 designed with safeguards to protect people from</p> <p>8 becoming addicts, or at least to try to?</p> <p>9 A. Yes.</p> <p>10 Q. And that's part of the purpose behind</p> <p>11 it, correct?</p> <p>12 A. Yes.</p> <p>13 Q. It says, "Had the manufacturers who sell</p> <p>14 these drugs any conscious, he would make his</p> <p>15 business to know who to he sold them in unusual</p> <p>16 quantities."</p> <p>17 Now, think about that for one second,</p> <p>18 and let me ask you, does that sound like the know</p> <p>19 your customer requirement?</p> <p>20 A. Yes.</p> <p>21 MR. RICARD: Objection to form.</p> <p>22 Q. You have to know who you're selling to</p> <p>23 before you just selling to them?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. That's their attempt, yes.</p> <p>2 Q. And even in 1910, it's sort of crazy how</p> <p>3 people saw that being part of the solution on how</p> <p>4 to get control of these controlled substances,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And PSI recognizes that if we don't have</p> <p>8 these safeguards, these what we call them safety</p> <p>9 rules, that it becomes dangerous for the American</p> <p>10 public?</p> <p>11 A. Yeah.</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 Q. Now, as an operator and, again, one who</p> <p>14 is a registrant, you have a special</p> <p>15 responsibility, do you not, when you're dealing</p> <p>16 with controlled substances?</p> <p>17 A. Yes.</p> <p>18 Q. And that responsibility is to act in a</p> <p>19 manner which tries to make the safest decisions</p> <p>20 for the American public, correct?</p> <p>21 MR. RICARD: Objection to form.</p> <p>22 A. Yes.</p> <p>23 Q. And that includes complying with these</p> <p>24 safety rules that we've already been discussing?</p>

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<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 MR. FULLER: Okay. And then next is</p> <p>3 Exhibit 8, which, Gina, is 108 -- or, no, it's</p> <p>4 not.</p> <p>5 MS. VELDMAN: It's good. I've got it.</p> <p>6 MR. RICARD: Same objection on legal</p> <p>7 conclusions, Mike.</p> <p>8 MR. FULLER: Sure.</p> <p>9 Gina, it's 106.</p> <p>10 ---</p> <p>11 (PSI-Schoen Exhibit 8 marked.)</p> <p>12 ---</p> <p>13 BY MR. FULLER:</p> <p>14 Q. Now, Mr. Schoen, I know you are not a</p> <p>15 lawyer.</p> <p>16 A. Correct.</p> <p>17 Q. I completely understand that. So I'm</p> <p>18 going to make this brief.</p> <p>19 Now, I believe you probably have been</p> <p>20 given a copy of this case, am I correct, Masters</p> <p>21 Pharmaceutical?</p> <p>22 A. I've seen a copy of it. I haven't read</p> <p>23 it. Yes.</p> <p>24 Q. Well, where did you get your copy?</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. FULLER: And, Gina, if you'll</p> <p>2 highlight or enlarge that highlighted section for</p> <p>3 me.</p> <p>4 BY MR. FULLER:</p> <p>5 Q. Now, do you see that there? This is</p> <p>6 just a portion of the opinion that I'm just going</p> <p>7 to focus on for a brief moment, okay, Mr. Schoen?</p> <p>8 And it talks about -- you see "The security</p> <p>9 requirement" in quotes there?</p> <p>10 A. Yes.</p> <p>11 Q. Now, that has significance, because if</p> <p>12 we go back to the earlier exhibit that was 21</p> <p>13 C.F.R. 1301.74, that suspicious order regulation,</p> <p>14 it was entitled the security requirements section,</p> <p>15 wasn't it?</p> <p>16 MR. RICARD: Objection to form.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. It says -- and this opinion</p> <p>19 reads, "The security requirement at the heart of</p> <p>20 the case mandates that distributors design and</p> <p>21 operate a system to identify suspicious orders of</p> <p>22 controlled substances and report those orders to</p> <p>23 the DEA." And then in parentheses, it has "the</p> <p>24 Reporting Requirement."</p>
<p style="text-align: right;">Page 55</p> <p>1 These guys?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Now, I would assume that that may</p> <p>4 have been more recently when you were getting</p> <p>5 ready for this deposition, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Now, this decision came out in</p> <p>8 June of last year. Were you made aware -- did</p> <p>9 anybody talk to you about the ramifications of</p> <p>10 this case back in June of last year when the</p> <p>11 opinion was rendered by the DC Circuit Court of</p> <p>12 Appeals?</p> <p>13 A. No.</p> <p>14 Q. And before -- well, up until the point</p> <p>15 where you were preparing for your deposition, had</p> <p>16 you ever heard of this case or its implications?</p> <p>17 A. No. I'd heard -- I heard Masters got in</p> <p>18 trouble, but that's it.</p> <p>19 Q. Well, they did. Whoever told you that</p> <p>20 was right. They got in trouble.</p> <p>21 Let me ask you -- and I'll ask you to</p> <p>22 turn to page 7. Now, you can either turn or look</p> <p>23 at the electronic copy, because the print on that</p> <p>24 printout is small as well.</p>	<p style="text-align: right;">Page 57</p> <p>1 Have you ever heard, Mr. Schoen, of "the</p> <p>2 Reporting Requirement"?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And that was that regulation we</p> <p>5 looked at earlier, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And PSI agrees that it has had a</p> <p>8 reporting requirement since that regulation was</p> <p>9 enacted in 1971, correct?</p> <p>10 MR. RICARD: Objection to form.</p> <p>11 A. Yes.</p> <p>12 Q. And that reporting requirement by law</p> <p>13 requires PSI or any distributor to report</p> <p>14 suspicious orders that it receives to the DEA,</p> <p>15 correct?</p> <p>16 MR. RICARD: Objection to form.</p> <p>17 A. Yes.</p> <p>18 Q. And that if it doesn't report suspicious</p> <p>19 orders to the DEA, then that distributor is</p> <p>20 breaking the law, correct?</p> <p>21 A. Yes.</p> <p>22 MR. RICARD: Objection to form.</p> <p>23 Q. Okay. Now, it goes on to say that "The</p> <p>24 reporting requirement is a relatively modest one.</p>

15 (Pages 54 to 57)

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<p style="text-align: right;">Page 58</p> <p>1 It requires only that a distributor provide basic 2 information about certain orders to DEA so that 3 DEA investigators in the field can aggregate 4 reports from every point along the legally 5 regulated supply chain and use the information to 6 ferret out potential illegal activity." 7 Did I read that correctly? 8 A. I wasn't following it, but I'm sure you 9 have, yes. 10 Q. You're too trusting, Mr. Schoen. I'm 11 kidding. 12 What I read to you exemplifies what we 13 talked about earlier; does it not? 14 A. Yes. 15 Q. And that the design of the system is 16 such that distributors have to provide information 17 to the DEA for the DEA to be able to do their job 18 effectively to prevent diversion? 19 MR. RICARD: Objection to form. 20 A. Yes. 21 Q. And PSI agrees with that, understands 22 that, and lives up to that obligation, correct? 23 MR. RICARD: Objection to form. 24 A. Yes.</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. RICARD: Objection to form. 2 A. Yes. 3 Q. Okay. Now, let's talk about it and why 4 that makes sense, okay? 5 If you get a suspicious order -- strike 6 that. 7 Not you. Somebody at your business. If 8 PSI gets a suspicious order, we understand that 9 that means it's suspicious for potential 10 diversion, correct? 11 A. There's something about it brought our 12 attention to it, yes. 13 Q. And something is wrong with it, correct? 14 A. Potentially, yes. 15 Q. We don't want to then -- if we think 16 there's a potential of it being diverted, we don't 17 want to send that order off, do we? 18 A. No. 19 Q. Because -- 20 A. If we think it's going to be diverted, 21 we won't send it off. 22 Q. And that's because that's part of your 23 obligation under the regulations, to maintain an 24 effective system to prevent diversion, correct?</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. Okay. Next it goes on -- it says, "Once 2 a distributor has reported a suspicious order, it 3 must make one of two choices: Decline to ship the 4 order or conduct due diligence." 5 Do you see that there? 6 A. I see it. 7 Q. This is ultimately referred to as "the 8 shipping requirement." 9 Have you ever heard of that term? 10 A. I've heard the term. 11 Q. What is your understanding of the 12 shipping requirement? And, quite honestly, it 13 shouldn't be the shipping requirement. It should 14 be the anti-shipping requirement, right? 15 A. That's correct. 16 Q. Okay. And is it your understanding that 17 the shipping requirement means that if we have a 18 suspicious order, we need not to ship it? 19 MR. RICARD: Objection to form. 20 A. Yes. 21 Q. And that that has been the obligation 22 not just upon PSI but upon all distributors, to 23 your understanding, since 1971 when this 24 regulation was passed?</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Yes. 2 Q. Okay. All right. We're done with that. 3 No more legal cases. I can't say that for sure. 4 There may be another one, now that I think about 5 it. 6 All right. 7 MR. RICARD: Are you doing okay? 8 THE WITNESS: Fine. 9 MR. FULLER: Okay. This is going to be 10 112, Gina. 11 --- 12 (PSI-Schoen Exhibit 9 marked.) 13 --- 14 BY MR. FULLER: 15 Q. So what I'm going to pass you next is 16 Plaintiff's Exhibit Number 9, and I'll explain it 17 to you first, Mr. Schoen. It is a State of Ohio 18 Administrative Code 202 -- or 2002. And I'll 19 represent to you that it is the current code. As 20 you can see from the bottom of the enlarged area, 21 current through December 31, 2002. 22 Do you see that there? 23 A. I see it. 24 Q. Okay.</p>

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<p>1 MR. RICARD: Real quick, same objection</p> <p>2 as to legal conclusion.</p> <p>3 MR. FULLER: Absolutely.</p> <p>4 BY MR. FULLER:</p> <p>5 Q. And it's Ohio Administrative Code</p> <p>6 Section 4729-9-16.</p> <p>7 Have you ever seen this before,</p> <p>8 Mr. Schoen?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Okay. Fair enough that you may have</p> <p>11 seen it; you just don't recall it?</p> <p>12 A. That's true.</p> <p>13 Q. Okay. And it says it's Baldwin's Ohio</p> <p>14 Administrative Code, Board of Pharmacy, relating</p> <p>15 to dangerous drugs.</p> <p>16 Do you see that there?</p> <p>17 A. Okay. Yes.</p> <p>18 Q. And I'm not going to do much with this.</p> <p>19 I just wanted to get your attention to --</p> <p>20 MR. FULLER: Gina, I think it's page 6.</p> <p>21 A. Page 6?</p> <p>22 MR. RICARD: We only have four pages.</p> <p>23 MS. VELDMAN: I don't have a page 6.</p> <p>24 MR. FULLER: It's actually page 6.</p>	<p>1 controlled substances and other dangerous drugs</p> <p>2 subject to abuse."</p> <p>3 And Section i says that -- did we lock</p> <p>4 someone out of this room?</p> <p>5 MR. PELINI: Locked the old man out.</p> <p>6 MR. FULLER: Dude, you can't take a</p> <p>7 hint?</p> <p>8 MR. PELINI: I can now.</p> <p>9 MR. FULLER: You leave again, we're not</p> <p>10 letting you back in.</p> <p>11 MR. PELINI: I understand.</p> <p>12 MR. FULLER: That bladder, huh?</p> <p>13 Kidding.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. It says under Section i, "The wholesaler</p> <p>16 shall inform the State Board of Pharmacy of</p> <p>17 suspicious orders for drugs when discovered.</p> <p>18 Suspicious orders are those which, in relation to</p> <p>19 the wholesaler's record as a whole, are of unusual</p> <p>20 size, unusual frequency, or deviates substantially</p> <p>21 from established buying patterns."</p> <p>22 Correct?</p> <p>23 MR. RICARD: Objection to form.</p> <p>24 Objection to scope.</p>
Page 63	Page 65
<p>1 Do you not have a page 6?</p> <p>2 MR. RICARD: It has four pages.</p> <p>3 MR. FULLER: Hold on. Maybe I've got</p> <p>4 the wrong one.</p> <p>5 BY MR. FULLER:</p> <p>6 Q. Mr. Schoen, that's what happens when you</p> <p>7 don't copy stuff yourself.</p> <p>8 A. That happens.</p> <p>9 Q. See, you know. You've been there, huh?</p> <p>10 MR. RICARD: Could I look at that real</p> <p>11 quick?</p> <p>12 MR. FULLER: Yeah. It's just the State</p> <p>13 code on suspicious orders.</p> <p>14 Will it focus?</p> <p>15 BY MR. FULLER:</p> <p>16 Q. Okay. Not that that is real clear --</p> <p>17 and I apologize for that, Mr. Schoen, but I'm</p> <p>18 going to read it to you this time. And this deals</p> <p>19 with the Ohio State Board of Pharmacy Code.</p> <p>20 You're aware there is a Board of Pharmacy Code,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And this says, "A system shall be</p> <p>24 designed and operate to disclose orders for</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And PSI as a distributor here in</p> <p>3 Ohio has to comply with that regulation as well?</p> <p>4 MR. RICARD: Same objections.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So let's take a minute and recap</p> <p>7 what we just went over, okay, so I can make sure</p> <p>8 it's clear and that you and I are on the same</p> <p>9 page.</p> <p>10 Prescription Supply, Inc., agrees that</p> <p>11 it must comply with the Controlled Substances Act</p> <p>12 as enacted in 1970 by the U.S. Congress, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Prescription Supply also agrees that as</p> <p>15 a licensed entity to distribute controlled</p> <p>16 substances, it has an obligation to try to make</p> <p>17 the safest choices to keep our children and</p> <p>18 communities safe related to those drugs?</p> <p>19 A. Yes.</p> <p>20 MR. RICARD: Objection to form.</p> <p>21 Q. Prescription Supply agrees and accepts</p> <p>22 that from 1971 forward, that there is a suspicious</p> <p>23 order reporting requirement requiring</p> <p>24 suspicious -- or excuse me -- requiring</p>

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<p style="text-align: right;">Page 66</p> <p>1 Prescription Supply to report any suspicious</p> <p>2 orders that it receives from any of its potential</p> <p>3 customers?</p> <p>4 MR. RICARD: Objection to form.</p> <p>5 A. Yes.</p> <p>6 Q. And that the reason and basis for</p> <p>7 reporting suspicious orders is to enable the DEA</p> <p>8 to do its job in enforcement of the law in</p> <p>9 preventing diversion?</p> <p>10 A. Yes.</p> <p>11 Q. That Prescription Supply also agrees and</p> <p>12 accepts that since 1971, there has been a shipping</p> <p>13 requirement, meaning that it cannot ship orders</p> <p>14 that are in any way suspicious?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. And that the reason we don't ship</p> <p>18 suspicious orders is because we don't want to</p> <p>19 contribute to potential diversion of controlled</p> <p>20 substances?</p> <p>21 A. Yes.</p> <p>22 Q. And that, as we've seen through history,</p> <p>23 Congress not just once, but now twice, has put</p> <p>24 into place a regulatory scheme, we'll call them</p>	<p style="text-align: right;">Page 68</p> <p>1 customers because they look sketchy, correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Because of one factor or another. Maybe</p> <p>4 they were off in a far different state. Maybe</p> <p>5 there were other indicators. But Prescription</p> <p>6 Supply has declined to do business with people who</p> <p>7 it felt may be involved in some sort of diversion?</p> <p>8 A. Many.</p> <p>9 Q. Making those type of choices has a</p> <p>10 financial impact on the company's operation; does</p> <p>11 it not?</p> <p>12 A. It does.</p> <p>13 Q. It can actually hamper a company's</p> <p>14 operations financially, correct?</p> <p>15 A. Yes. So can not making those choices.</p> <p>16 Q. Absolutely. But Prescription Supply</p> <p>17 would agree that a less safe choice should not be</p> <p>18 made just for financial gain?</p> <p>19 A. Yes.</p> <p>20 Q. The financial gain should not weigh in</p> <p>21 when trying to decide whether to report a</p> <p>22 suspicious order or to halt orders?</p> <p>23 A. Yes.</p> <p>24 Q. And that if it does, it's not good for</p>
<p style="text-align: right;">Page 67</p> <p>1 safety rules, to try to keep the communities, our</p> <p>2 children, safe from these dangerous drugs?</p> <p>3 MR. RICARD: Objection to form.</p> <p>4 Objection to scope.</p> <p>5 A. Yes.</p> <p>6 Q. And that as a link in the chain of</p> <p>7 distribution, wholesalers have an obligation to</p> <p>8 make the safest choices when distributing these</p> <p>9 dangerous drugs to protect our children and our</p> <p>10 families and our communities?</p> <p>11 MR. RICARD: Objection to form.</p> <p>12 A. Yes.</p> <p>13 Q. And Prescription Supply, Inc., would</p> <p>14 agree that in distributing these controlled</p> <p>15 substances, every distributor needs to comply with</p> <p>16 the public safety rules and make the safest</p> <p>17 choices related to the distribution of these</p> <p>18 controlled substances?</p> <p>19 MR. RICARD: Objection to form.</p> <p>20 A. Yes.</p> <p>21 Q. Now -- and I'll be upfront. I've seen</p> <p>22 it in the documents that have been provided by</p> <p>23 your counsel that Prescription Supply has on</p> <p>24 occasion declined to do business with potential</p>	<p style="text-align: right;">Page 69</p> <p>1 the American public?</p> <p>2 A. Yes.</p> <p>3 MR. FULLER: Okay. Guys, we've been</p> <p>4 going a little over an hour. Do you want to take</p> <p>5 a break?</p> <p>6 MR. RICARD: Sure.</p> <p>7 THE VIDEOGRAPHER: The time is now</p> <p>8 10:13. Going off the record.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: The time is now</p> <p>11 10:27. Back on the record.</p> <p>12 BY MR. FULLER:</p> <p>13 Q. And, Mr. Schoen, I'm sorry because I</p> <p>14 didn't tell you this at the beginning. If you</p> <p>15 need a break at any time for anything, use the</p> <p>16 restroom, take a phone call, whatever it may be,</p> <p>17 just let us know. This isn't meant to be</p> <p>18 unbearable, uncomfortable. I know it's not</p> <p>19 necessarily pleasurable being here.</p> <p>20 A. It's not meant to be, yes.</p> <p>21 Q. But we'll try to do everything we can,</p> <p>22 including keeping you with some Diet Coke, if</p> <p>23 necessary.</p> <p>24 A. Thank you.</p>

18 (Pages 66 to 69)



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<p>1 Q. Now, you put cream in tea?</p> <p>2 A. I'd rather put milk in it, but -- that's</p> <p>3 the way I was brought up. You know, it's a</p> <p>4 very --</p> <p>5 Q. English thing?</p> <p>6 A. Yes.</p> <p>7 Q. I was going to say.</p> <p>8 A. My mother-in-law, who has passed away,</p> <p>9 was a war bride.</p> <p>10 Q. Oh, really?</p> <p>11 A. And she -- but she was there during the</p> <p>12 war, and during the depression, which didn't hit</p> <p>13 England as hard.</p> <p>14 Q. Sure.</p> <p>15 A. So she never used milk in her tea.</p> <p>16 Q. No?</p> <p>17 A. She never used it in her tea because</p> <p>18 they couldn't afford it.</p> <p>19 Q. Not because she didn't want it?</p> <p>20 A. It's the world, you know.</p> <p>21 Q. Not because she didn't want it?</p> <p>22 A. Well, perhaps. What she doesn't know --</p> <p>23 what she didn't know, she didn't --</p> <p>24 Q. You don't miss, right?</p>	<p>1 Q. But 120 people a day?</p> <p>2 A. It was shocking to me that Limbaugh got</p> <p>3 hooked on it.</p> <p>4 Q. And let me ask, unlike a lot of the</p> <p>5 other Defendants here, you've been in the industry</p> <p>6 personally yourself for a very long time. Did you</p> <p>7 ever think you would see an epidemic develop like</p> <p>8 has developed in this country?</p> <p>9 A. There -- I was in college just before</p> <p>10 the -- I'm going to say the drug revolution at</p> <p>11 least hit in my area. I wasn't -- I graduated</p> <p>12 St. Thomas in Saint Paul, Minnesota.</p> <p>13 Q. Yes, sir.</p> <p>14 A. We didn't know about -- I mean, we knew</p> <p>15 marijuana, but we didn't use it. I never knew</p> <p>16 anybody that used it. We knew that at the</p> <p>17 university, some people were experimenting with</p> <p>18 LSD, but I didn't know anybody personally.</p> <p>19 I went into the Army, came back, went</p> <p>20 into graduate school. I graduated in '67, went in</p> <p>21 the Army '68, '69, came back, went to graduate</p> <p>22 school, and the world was a different place.</p> <p>23 And to that extent, I'm not surprised</p> <p>24 that addiction is a problem in this country. And</p>
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<p>1 A. That's right.</p> <p>2 Q. What I always tell everybody, growing up</p> <p>3 we didn't have air-conditioning until I was in</p> <p>4 high school, which wasn't necessarily back in the</p> <p>5 depression. I mean, this is in the --</p> <p>6 A. Where were you --</p> <p>7 Q. I was born and raised in Plant City,</p> <p>8 Florida. It's a strawberry farming town outside</p> <p>9 of Tampa.</p> <p>10 MS. QUEZON: You need air conditioning.</p> <p>11 Q. So it's the south.</p> <p>12 All right. And, Mr. Schoen,</p> <p>13 Prescription Supply, Inc., does recognize that we</p> <p>14 are currently in an opioid crisis, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that currently -- I think the last</p> <p>17 number was somewhere around 120 people are dying</p> <p>18 of prescription-related overdoses every day in</p> <p>19 this country?</p> <p>20 A. I wasn't aware of that, but I'll accept</p> <p>21 it.</p> <p>22 Q. Assuming that that figure is correct, is</p> <p>23 that shocking to you?</p> <p>24 A. Certainly anybody dying is shocking.</p>	<p>1 people that claim that marijuana is not a problem</p> <p>2 are wrong as far as I'm concerned.</p> <p>3 Q. Well, I appreciate that. I do. Now</p> <p>4 we're facing an opioid epidemic on top of</p> <p>5 everything else, which Prescription Supply</p> <p>6 recognizes, correct?</p> <p>7 A. I do.</p> <p>8 Q. And we're going to talk a little bit now</p> <p>9 about that crisis and how long it's been going and</p> <p>10 developing.</p> <p>11 MR. FULLER: Hey, AJ, give me 201.</p> <p>12 Thanks.</p> <p>13 ---</p> <p>14 (PSI-Schoen Exhibit 10 marked.)</p> <p>15 ---</p> <p>16 BY MR. FULLER:</p> <p>17 Q. Mr. Schoen, have you ever heard of the</p> <p>18 United States General Accounting Office or</p> <p>19 sometimes referred to as the GAO?</p> <p>20 A. Probably I've heard of it. I don't know</p> <p>21 anything about it.</p> <p>22 Q. So it is a federal body that does</p> <p>23 accountability, integrity, and reliability related</p> <p>24 to different issues going on in our country, as</p>

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<p style="text-align: right;">Page 74</p> <p>1 well as within our federal government. So there</p> <p>2 has been a GAO looking into the DEA. This one is</p> <p>3 looking into, as you can see, prescription drugs.</p> <p>4 And as you can see, it's entitled "United States</p> <p>5 General Accounting Office, GAO Report to</p> <p>6 Subcommittee on Oversight and Investigations,</p> <p>7 Committee on Energy and Commerce, House of</p> <p>8 Representatives."</p> <p>9 And you understand that that is one of</p> <p>10 the investigative bodies within our United States</p> <p>11 House of Representatives, correct?</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 Objection to scope.</p> <p>14 A. I do.</p> <p>15 Q. And that the title of this -- and it's</p> <p>16 dated May of 2002. So we're going back about 16</p> <p>17 years, correct --</p> <p>18 A. Apparently.</p> <p>19 Q. -- if I did my math right?</p> <p>20 A. Yes.</p> <p>21 Q. And it says, "Prescription Drugs, State</p> <p>22 Monitoring Programs Provide Useful Tool to Reduce</p> <p>23 Diversion."</p> <p>24 And you know what state monitoring</p>	<p style="text-align: right;">Page 76</p> <p>1 substantial value on the black market?</p> <p>2 MR. RICARD: Objection to form.</p> <p>3 Objection to scope.</p> <p>4 A. I do.</p> <p>5 Q. And that's part of the problem, because</p> <p>6 that incentivizes people to participate in the</p> <p>7 illicit market when you're dealing with controlled</p> <p>8 substances, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And that takes us back to what we looked</p> <p>11 at earlier on the Congressional history from 1970,</p> <p>12 is we basically got to make sure the punishment or</p> <p>13 potential punishment significantly outweighs</p> <p>14 whatever potential gains are there in order for</p> <p>15 the system to be effective, correct?</p> <p>16 A. Yes.</p> <p>17 Q. PSI recognizes that and suggests that</p> <p>18 that's part of the way we can get control of this</p> <p>19 epidemic, correct?</p> <p>20 MR. RICARD: Objection to form.</p> <p>21 A. Yes.</p> <p>22 Q. They go on to state, "A single</p> <p>23 40-milligram OxyContin tablet legally selling for</p> <p>24 about \$4 is worth about \$40 on the illicit</p>
<p style="text-align: right;">Page 75</p> <p>1 programs are, correct?</p> <p>2 A. I do.</p> <p>3 Q. Okay. And if you turn -- and I'll tell</p> <p>4 you, I didn't provide you the whole document, I</p> <p>5 don't think. I think I just provided you the</p> <p>6 relevant page. So if you'll turn to the second</p> <p>7 page where it talks to the background, and it</p> <p>8 says, "The diversion and abuse of prescription</p> <p>9 drugs are associated with incalculable costs to</p> <p>10 society in terms of addiction, overdose, death,</p> <p>11 and related criminal activities."</p> <p>12 Does Prescription Supply agree that</p> <p>13 diversion -- it's foreseeable that diversion would</p> <p>14 cause all those issues; addiction, overdose,</p> <p>15 death, and criminal related activities?</p> <p>16 MR. RICARD: Objection to form.</p> <p>17 Objection to scope.</p> <p>18 A. Yes.</p> <p>19 Q. It goes on to say the "DEA has stated</p> <p>20 that the diversion and abuse of legitimately</p> <p>21 produced controlled pharmaceuticals constitutes a</p> <p>22 multibillion-dollar illicit market nationwide."</p> <p>23 Does Prescription Supply recognize that</p> <p>24 the controlled substances that you deal in has a</p>	<p style="text-align: right;">Page 77</p> <p>1 market."</p> <p>2 Does that coincide with what you've</p> <p>3 heard as Prescription Supply, Inc.? Not to</p> <p>4 suggest that you've been out buying pills</p> <p>5 illegally.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Now, keep in mind -- and this is</p> <p>8 in 2002. So we're going back well over a decade,</p> <p>9 16 years.</p> <p>10 MR. FULLER: 202. Well, I've got one</p> <p>11 copy of 202. It's this whole folder. There we</p> <p>12 go.</p> <p>13 BY MR. FULLER:</p> <p>14 Q. I put my sticker on my copy. I do that.</p> <p>15 I get like -- multitasking, not my strong suit.</p> <p>16 A. Which is why you let other people do</p> <p>17 your copying.</p> <p>18 Q. Yeah, and then see what happens.</p> <p>19 ---</p> <p>20 (PSI-Schoen Exhibit 11 marked.)</p> <p>21 ---</p> <p>22 Q. All right. This is going to be</p> <p>23 Plaintiff's Exhibit Number 11. And we've seen</p> <p>24 this once before, I think, Mr. Schoen. Do you see</p>

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<p style="text-align: right;">Page 78</p> <p>1 this? And I'm holding it up. The HathiTrust?</p> <p>2 A. Yes.</p> <p>3 Q. You've probably never heard of it, have</p> <p>4 you?</p> <p>5 A. I have not, no.</p> <p>6 Q. It is a non-profit that collects -- and</p> <p>7 I didn't learn about it until this litigation --</p> <p>8 collects old documents or older documents. That's</p> <p>9 how I gained access to that 1910 Congressional</p> <p>10 Record, because otherwise you would have to go to</p> <p>11 the Congress archives in DC and try to dig it out.</p> <p>12 So a lot of this stuff, fortunately, is online</p> <p>13 now.</p> <p>14 So if you'll turn to page 2. This is</p> <p>15 another United States Congressional hearing. The</p> <p>16 title of it is, "OxyContin: Its Use and Abuse."</p> <p>17 Now, you are aware of what OxyContin is,</p> <p>18 correct, Mr. Schoen?</p> <p>19 A. I'm not a pharmacologist, but yes. I'm</p> <p>20 basically aware that it is a pain drug.</p> <p>21 Q. And you're aware that it's an</p> <p>22 opioid-based pain medication?</p> <p>23 A. I am aware.</p> <p>24 Q. And I'll tell you, if you're aware or</p>	<p style="text-align: right;">Page 80</p> <p>1 MR. RICARD: Objection to form.</p> <p>2 A. To be -- I mean, I've heard something</p> <p>3 about it. That's --</p> <p>4 Q. But you don't know the details?</p> <p>5 A. I certainly don't.</p> <p>6 Q. Fair enough. And, again, if you don't,</p> <p>7 just tell me that.</p> <p>8 A. Okay.</p> <p>9 Q. That is a legitimate answer as long as</p> <p>10 it's a truthful answer, okay?</p> <p>11 A. All right.</p> <p>12 Q. So this hearing is before the</p> <p>13 Subcommittee on Oversight and Investigations of</p> <p>14 the Committee on Energy and Commerce, House of</p> <p>15 Representatives, One Hundred Seventh Congress,</p> <p>16 first session, August 28, 2001.</p> <p>17 So here going back a year prior to the</p> <p>18 last document that we looked at, which was a GAO</p> <p>19 report, this is going back to 2001, and it's the</p> <p>20 abuse -- the use and abuse of OxyContin.</p> <p>21 And if you will turn to page 6. It</p> <p>22 says, "The use and abuse of OxyContin provides</p> <p>23 quite a dilemma for us in the U.S. Congress" --</p> <p>24 excuse me -- "for us in Congress and for the</p>
<p style="text-align: right;">Page 79</p> <p>1 not, that it was launched in approximately 1996.</p> <p>2 Does that seem to coincide with your</p> <p>3 recollection?</p> <p>4 A. Yes.</p> <p>5 Q. And are you aware that -- it was created</p> <p>6 by Purdue Pharma, which you know who they are,</p> <p>7 correct?</p> <p>8 A. (Indicates affirmatively.)</p> <p>9 MR. RICARD: You have to say yes or no.</p> <p>10 A. Yes. I'm sorry.</p> <p>11 Q. That's all right. Again, we get into</p> <p>12 that conversational tone and we forget sometimes.</p> <p>13 I apologize.</p> <p>14 Are you aware that the -- that multiple</p> <p>15 entities have been very critical of Purdue Pharma</p> <p>16 for the way it marketed OxyContin to doctors and</p> <p>17 patients?</p> <p>18 MR. RICARD: Objection to form.</p> <p>19 Q. And if you're not aware --</p> <p>20 A. I'm really -- in particular, no, I'm not</p> <p>21 aware of it.</p> <p>22 Q. Are you aware that they got in trouble</p> <p>23 with the DEA for the way they market their</p> <p>24 product?</p>	<p style="text-align: right;">Page 81</p> <p>1 American public. For some, OxyContin is the angel</p> <p>2 of mercy; and for others, it's the angel of</p> <p>3 death."</p> <p>4 Does Prescription Supply agree that if</p> <p>5 used appropriately, OxyContin has its place and</p> <p>6 can be a, for lack of a better analogy, angel of</p> <p>7 mercy; and if used illicitly, can also bring about</p> <p>8 death?</p> <p>9 MR. RICARD: Objection to form.</p> <p>10 A. Yes.</p> <p>11 Q. It says, "Today, we will hear from law</p> <p>12 enforcement officials who argue that OxyContin is</p> <p>13 quickly becoming the abuser's drug of choice,</p> <p>14 surpassing heroin and cocaine in some</p> <p>15 jurisdictions."</p> <p>16 Does Prescription Supply agree and</p> <p>17 recognize that as early as 2001, we were seeing</p> <p>18 the opioid epidemic blossom and bloom?</p> <p>19 A. To be honest, in 2001, I don't believe I</p> <p>20 was aware of that.</p> <p>21 Q. Whether you were --</p> <p>22 A. I'm aware of it now.</p> <p>23 Q. Sure. Let's go on, and then I'll ask</p> <p>24 the next question.</p>

21 (Pages 78 to 81)

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<p style="text-align: right;">Page 82</p> <p>1 If you'll turn to page 8. It says,  2 "These actions, though commendable, also appear  3 long overdue. According to DEA, the number of  4 oxycodone-related deaths has increased 400 percent  5 since 1996, the same time period in which the  6 annual number of prescriptions for OxyContin has  7 risen from approximately 300,000 to almost  8 6 million."  9 We're looking at the time frame,  10 Mr. Schoen, of 1996 to 2001. Prescription Supply  11 would agree that that is an unusual increase in  12 the prescriptions for any drug going from 300,000  13 to 6 million?  14 MR. RICARD: Objection to form.  15 Q. Do you know how many times that is  16 increased --  17 A. No.  18 Q. -- or what percentage?  19 A. No.  20 Q. So I had to do the math on the  21 calculator.  22 A. Okay.  23 Q. That's a 2,000 percent increase in five  24 years.</p>	<p style="text-align: right;">Page 84</p> <p>1 ask you.  2 You're not saying that there weren't  3 other opioid-based pain medications, because we  4 know morphine --  5 A. Yes.  6 Q. -- was around?  7 A. Yes.  8 Q. We know Lortab was around. Vicodin was  9 around.  10 A. Yeah.  11 Q. Those are all other pain medications,  12 right?  13 A. Well, yeah, there are. When I think of  14 morphine, I think of even worse than, you know ...  15 Q. It would shock you that that's not the  16 case, huh?  17 A. I am shocked that that's not the case,  18 yes. I did not know that.  19 Q. So take that increase, that  20 2,000 percent increase --  21 A. Yes.  22 Q. -- in light of the earlier sentence, a  23 400 percent increase in oxycodone-related deaths  24 during the same time frame. That's not right, is</p>
<p style="text-align: right;">Page 83</p> <p>1 A. Mm-hmm.  2 Q. Does that cause you any concern as  3 someone in the industry knowing that this is a  4 Schedule II controlled substance?  5 A. It depends on what it's being used for,  6 doesn't it?  7 Q. Right.  8 A. When my wife broke her leg --  9 Q. Yes, sir.  10 A. -- okay, she got a prescription, okay,  11 and at that time I asked a nurse, who happened to  12 have been a neighbor of ours at one time, that was  13 there, "Why this? Why that drug?"  14 And she said, "Because there's nothing  15 else available," which could explain the rise in  16 this. I mean, it used to be when I was in the  17 Army and had my teeth pulled, they gave me Darvon  18 Compound or something.  19 Q. Sure.  20 A. And that's gone. A lot of the drugs  21 that were out there have disappeared, and that  22 would allow them to gain a certain market share.  23 I'm not defending. I'm just saying that that's --  24 Q. Sure. And you're not -- well, let me</p>	<p style="text-align: right;">Page 85</p> <p>1 it? People shouldn't be dying from prescription  2 medication, should they?  3 MR. RICARD: Objection to form.  4 A. No.  5 Q. Okay.  6 A. But people do die from taking  7 prescription medication. Very few hopefully.  8 Q. You wouldn't expect --  9 A. But I wouldn't expect 400 percent, no.  10 Q. Right. Now, if during this time frame  11 we are mismarketing medications, during this time  12 frame if we are -- and I say "we." People in the  13 supply chain -- and I'm not picking on PSI -- are  14 shipping and not reporting suspicious orders, this  15 type of thing could be a foreseeable outcome,  16 correct?  17 MR. RICARD: Objection to form.  18 A. Yes. But these are -- you're talking  19 about 6 million prescriptions.  20 Q. That's a lot.  21 A. That's a lot.  22 Q. I mean, particularly when five years ago  23 it was only 300,000 --  24 A. Correct.</p>

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<p style="text-align: right;">Page 86</p> <p>1 Q. -- a 2,000 percent increase?</p> <p>2 A. Mm-hmm.</p> <p>3 Q. Now, I agree with you there's plenty of</p> <p>4 blame to go around. Doctors had to write those</p> <p>5 scripts, right?</p> <p>6 A. That's right.</p> <p>7 Q. But we know there's bad doctors out</p> <p>8 there, too, don't we?</p> <p>9 A. That's right.</p> <p>10 Q. Now, we also are not -- as being a</p> <p>11 member of the supply chain, Prescription Supply,</p> <p>12 we're not going to condone any manufacturers who</p> <p>13 may be mismarketing their drugs either?</p> <p>14 A. No.</p> <p>15 Q. That's absolutely inappropriate,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. It's absolutely detrimental to the</p> <p>19 American public, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Without question?</p> <p>22 A. Without question.</p> <p>23 Q. We're not going to condone any other</p> <p>24 wholesale distributors who may be shrugging their</p>	<p style="text-align: right;">Page 88</p> <p>1 ---</p> <p>2 Q. Now, Mr. Schoen, this is the National</p> <p>3 Center On Addiction and Substance Abuse, Cornell</p> <p>4 University. You know of Cornell University, heard</p> <p>5 of it at least, correct?</p> <p>6 A. Yes.</p> <p>7 Q. A very prestigious entity -- university?</p> <p>8 A. Yes.</p> <p>9 Q. And it's funded by -- well, excuse me.</p> <p>10 It's "Under the Counter: The Diversion and Abuse</p> <p>11 of Controlled Prescription Drugs in the U.S.," and</p> <p>12 it's dated -- what date do you see there,</p> <p>13 Mr. Schoen?</p> <p>14 A. July '05.</p> <p>15 Q. So a couple years after those other</p> <p>16 documents we looked at, right?</p> <p>17 A. Correct.</p> <p>18 Q. And it's funded by an unrestricted grant</p> <p>19 from who?</p> <p>20 A. From Purdue apparently.</p> <p>21 Q. Purdue Pharma LP?</p> <p>22 A. Okay.</p> <p>23 Q. The maker of OxyContin, right?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 87</p> <p>1 duties to report and stop suspicious orders</p> <p>2 either, are we?</p> <p>3 A. No.</p> <p>4 Q. I'm not saying you or picking on anybody</p> <p>5 else here, but if it's happening, Prescription</p> <p>6 Supply isn't going to stand for it?</p> <p>7 A. Prescription Supply isn't going to do it</p> <p>8 for sure.</p> <p>9 Q. For sure. And doesn't think anybody</p> <p>10 else should be able to get away with it?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay.</p> <p>13 MR. FULLER: I need 206.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. It's another big book, but at least my</p> <p>16 boxes are going to be a lot lighter going home.</p> <p>17 A. I'm happy for you and the airlines.</p> <p>18 Q. And you don't have to take this with</p> <p>19 you?</p> <p>20 A. I'm happy for you and the airlines.</p> <p>21 Q. All right. This is going to be</p> <p>22 Plaintiff's Exhibit Number 12.</p> <p>23 ---</p> <p>24 (PSI-Schoen Exhibit 12 marked.)</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. And there's only one area I want to</p> <p>2 touch on. If you go to page 9, again, Bates</p> <p>3 number in the upper right-hand corner.</p> <p>4 A. It happens to agree with the lower page.</p> <p>5 Okay.</p> <p>6 Q. Sir?</p> <p>7 A. It happens to agree with the lower.</p> <p>8 Q. Oh, it does. You're right. You're</p> <p>9 right.</p> <p>10 It says, "The bottom line: Our nation</p> <p>11 is in the throws of an epidemic of controlled</p> <p>12 prescription drug abuse and addiction. Today</p> <p>13 15.1 million people admit abusing prescription</p> <p>14 drugs, more than the combined number who admit</p> <p>15 abusing cocaine, hallucinogens, and heroin</p> <p>16 combined." Oh, and inhalants as well.</p> <p>17 Do you see that there?</p> <p>18 A. I see it.</p> <p>19 Q. And, again, you may not have ever been</p> <p>20 provided this report or seen this report, but PSI</p> <p>21 has no reason to disagree with this report that in</p> <p>22 the early 2000s, we were in the throws of a</p> <p>23 prescription drug abuse and addiction epidemic,</p> <p>24 correct?</p>



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<p style="text-align: right;">Page 90</p> <p>1 MR. RICARD: Objection to form.</p> <p>2 Objection to scope.</p> <p>3 A. I assume that this is accurate then,</p> <p>4 yes.</p> <p>5 Q. And then here's what was most shocking</p> <p>6 to me at least, and you tell me. "Children are</p> <p>7 especially at risk."</p> <p>8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. "In 2003" -- so about that time frame</p> <p>11 you were just talking about -- "2.3 million teens</p> <p>12 between the ages of 12 and 17 admit abusing</p> <p>13 prescription drugs in the past year. 83 percent</p> <p>14 of them admitted abusing opioids."</p> <p>15 Now, understanding that that was going</p> <p>16 on back 15 years ago, that causes Prescription</p> <p>17 Supply great concern, doesn't it?</p> <p>18 A. It does.</p> <p>19 Q. Because these are our kids, right?</p> <p>20 A. Right.</p> <p>21 Q. These are part of the people that we</p> <p>22 are -- and I say "we." Prescription Supply is</p> <p>23 trying to keep safe by abiding by the Controlled</p> <p>24 Substances Act?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Prescription Supply also recognizes</p> <p>2 that -- strike that.</p> <p>3 So with that information that I showed</p> <p>4 you provided by the GAO, the Congressional</p> <p>5 hearings, and now Cornell University, while you</p> <p>6 may not have known it at the time, Prescription</p> <p>7 Supply agrees that the evidence indicates that we</p> <p>8 were in an opioid epidemic even in the early</p> <p>9 2000s?</p> <p>10 MR. RICARD: Objection to form.</p> <p>11 Objection to scope.</p> <p>12 A. Yes, based on what you've shown me.</p> <p>13 Q. And assuming that it's true?</p> <p>14 A. Assuming.</p> <p>15 Q. Because you haven't done anything to</p> <p>16 independently verify this stuff?</p> <p>17 A. I have not.</p> <p>18 Q. All right. Mr. Schoen, we're going to</p> <p>19 talk now a little bit about interaction and</p> <p>20 communication with the DEA. So here's what my</p> <p>21 hope is -- and counsel probably picked up on this</p> <p>22 already.</p> <p>23 We're flowing through a bunch of</p> <p>24 different topics, subjects, most of which are set</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Yes.</p> <p>2 Q. We shouldn't have -- would Prescription</p> <p>3 Supply agree that we shouldn't have 2.3 million</p> <p>4 teens, kids between the ages of 12 and 17, abusing</p> <p>5 opioids in this country?</p> <p>6 A. Yes.</p> <p>7 Q. And this would be an indication that we</p> <p>8 are in an epidemic even in the early 2000s,</p> <p>9 correct?</p> <p>10 MR. RICARD: Objection to form.</p> <p>11 A. Yes.</p> <p>12 Q. Now, Prescription Supply is aware that</p> <p>13 when you're talking about oxycodone or hydrocodone</p> <p>14 or any of the other derivatives, you're dealing</p> <p>15 with opioids, right?</p> <p>16 A. Yes.</p> <p>17 Q. Hydrocodone was -- I say recently.</p> <p>18 What? 2014, I think rescheduled from a III to a</p> <p>19 II?</p> <p>20 A. Yes.</p> <p>21 Q. That's because of the dangerous</p> <p>22 propensities with that medication as well, right?</p> <p>23 MR. RICARD: Objection to form.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 93</p> <p>1 out in the 30(b) notices, the Exhibits 1 and 2</p> <p>2 that we looked at earlier. Through the</p> <p>3 progression through these subject areas, we're</p> <p>4 going to cover -- at least my goal is -- most of</p> <p>5 the subjects set out in the 30(b).</p> <p>6 There may be some that we need to go</p> <p>7 back and -- that I didn't ask about that we'll</p> <p>8 clean up at the end, just to get the information</p> <p>9 out, but I'm just trying to do this in sort of</p> <p>10 organic conversation type instead of running</p> <p>11 through one after the other, which, trust me,</p> <p>12 would be even more boring than this already is for</p> <p>13 you. Okay?</p> <p>14 A. Yes.</p> <p>15 Q. All right. Now, my understanding is</p> <p>16 that -- strike that.</p> <p>17 PSI has had interaction with the DEA in</p> <p>18 the past, correct?</p> <p>19 A. Yes.</p> <p>20 Q. As of -- shoot. I think I saw a --</p> <p>21 A. The DEA is a regulatory body --</p> <p>22 MR. RICARD: There's no question</p> <p>23 pending.</p> <p>24 Q. If you want to go ahead and start</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 talking, we all -- I'm kidding. I'm kidding.</p> <p>2 Listen to the advice of your counsel.</p> <p>3 Now, as recent as April, I think, of</p> <p>4 '16, PSI had a meeting and a presentation done by</p> <p>5 the DEA. Does that sound correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. But you're correct, the</p> <p>8 regulatory body, at least at the federal level, is</p> <p>9 the DEA; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Prescription Supply also recognizes that</p> <p>12 they have to comply with the board of pharmacies</p> <p>13 in the respective states that they do business in,</p> <p>14 particularly the state we're sitting in, the State</p> <p>15 of Ohio --</p> <p>16 A. Yes.</p> <p>17 Q. -- correct?</p> <p>18 And they may have slightly different</p> <p>19 rules and regulations, some of which we saw</p> <p>20 earlier today?</p> <p>21 A. Yes.</p> <p>22 Q. But it doesn't change the fact that</p> <p>23 Prescription Supply is obligated to comply with</p> <p>24 those regulations?</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Correct.</p> <p>2 Q. Okay. This particular letter, however,</p> <p>3 is to Cardinal Health, right?</p> <p>4 A. Yes.</p> <p>5 Q. Not Prescription Supply?</p> <p>6 A. That's correct.</p> <p>7 Q. Now, I'll tell you -- and it may be</p> <p>8 because it wasn't saved or it wasn't kept -- I</p> <p>9 never got in discovery one that was sent to</p> <p>10 Prescription Supply. I'm not faulting anybody.</p> <p>11 It's just I didn't get it.</p> <p>12 Do you know whether Prescription Supply</p> <p>13 ever got such a letter from the DEA?</p> <p>14 A. I don't know that we got it. I assume</p> <p>15 we got it, but I don't know that we have it.</p> <p>16 Q. So let me ask you a different question.</p> <p>17 Assuming that the DEA sent one to every</p> <p>18 registrant in the country in September of 2006,</p> <p>19 presumptively the same letter would have been sent</p> <p>20 to Prescription Supply because it was a registrant</p> <p>21 as well, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. But sitting here today, you have</p> <p>24 no independent recollection of actually getting</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 MR. FULLER: 301.</p> <p>4 And, Counsel, this is the Dear Registrant</p> <p>5 letter from 2006. In the production, I didn't get one</p> <p>6 that was specifically to Prescription Supply --</p> <p>7 MR. RICARD: Right.</p> <p>8 MR. FULLER: -- so I just grabbed</p> <p>9 Cardinal's, so I'm assuming that he will testify</p> <p>10 that they got one.</p> <p>11 MR. RICARD: Yeah. You can ask him.</p> <p>12 ---</p> <p>13 (PSI-Schoen Exhibit 13 marked.)</p> <p>14 ---</p> <p>15 BY MR. FULLER:</p> <p>16 Q. So, Mr. Schoen, this letter is what we</p> <p>17 refer to as a Dear Registrant letter. And if you</p> <p>18 look at the very beginning, it says, "This letter</p> <p>19 is being sent to every commercial entity in the</p> <p>20 United States registered with the DEA to</p> <p>21 distribute controlled substances."</p> <p>22 And certainly we've established that</p> <p>23 Prescription Supply would fall into that category,</p> <p>24 correct?</p>	<p style="text-align: right;">Page 97</p> <p>1 this letter?</p> <p>2 A. No, I don't.</p> <p>3 Q. Okay. And that's fair enough, all</p> <p>4 right? Like I told you before, if you don't know</p> <p>5 or you don't remember, just tell me, and I don't</p> <p>6 have any problem with that, okay?</p> <p>7 A. Yes.</p> <p>8 Q. All right. Now, we're going to go</p> <p>9 through some areas of this letter and just talk</p> <p>10 about them briefly.</p> <p>11 So it says -- after that first sentence,</p> <p>12 it says, "The purpose of this letter is to</p> <p>13 reiterate the responsibilities of controlled</p> <p>14 substance distribution in view of the prescription</p> <p>15 drug abuse problem our nation currently faces."</p> <p>16 Do you see that?</p> <p>17 A. I see it.</p> <p>18 Q. If we roll down to the -- under the</p> <p>19 Background section --</p> <p>20 MR. FULLER: Yeah. How did you know I</p> <p>21 was going there? Is that highlighted on yours?</p> <p>22 MS. VELDMAN: No. I was just cheating</p> <p>23 looking --</p> <p>24 MR. FULLER: She's good.</p>

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<p style="text-align: right;">Page 98</p> <p>1 BY MR. FULLER:</p> <p>2 Q. All right. If you go down to the</p> <p>3 paragraph -- well, you have it highlighted, so I</p> <p>4 don't need to specify, but the highlighted section</p> <p>5 there says, "Distributors are, of course, one of</p> <p>6 the key components of the distribution chain. If</p> <p>7 the closed system is to function properly as</p> <p>8 Congress envisioned, distributors must be vigilant</p> <p>9 in deciding whether a proposed customer can be</p> <p>10 trusted to deliver controlled substances only for</p> <p>11 lawful purposes."</p> <p>12 PSI agrees and accepts that</p> <p>13 responsibility as set out by the DEA in this</p> <p>14 letter, correct?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. PSI also agrees that that has been the</p> <p>18 obligation since 1971, right?</p> <p>19 A. Yes.</p> <p>20 Q. That PSI, along with the other</p> <p>21 registered distributors, is a key component in the</p> <p>22 distribution chain and must be, as it says here,</p> <p>23 vigilant in deciding whether to ship controlled</p> <p>24 substances, correct?</p>	<p style="text-align: right;">Page 100</p> <p>1 business, correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. If you go to the next page,</p> <p>4 Mr. Schoen.</p> <p>5 A. Yes.</p> <p>6 Q. It says, "The statutory factors DEA must</p> <p>7 consider in deciding whether to revoke a</p> <p>8 distributor's registration are set forth in 21</p> <p>9 U.S.C. 823(e). Listed first among these factors</p> <p>10 is the duty of the distributors to maintain</p> <p>11 effective controls against diversion of controlled</p> <p>12 substances into other than legitimate medical,</p> <p>13 scientific, and industrial channels."</p> <p>14 Prescription Supply agrees and accepts</p> <p>15 that duty and responsibility to maintain effective</p> <p>16 controls against diversion, correct?</p> <p>17 MR. RICARD: Objection to form.</p> <p>18 A. It does.</p> <p>19 Q. Okay. And then it goes down, and it</p> <p>20 says, "The DEA regulations require" -- do you see</p> <p>21 that section?</p> <p>22 A. No.</p> <p>23 Q. Hold on. She'll get there. Yeah,</p> <p>24 that's it.</p>
<p style="text-align: right;">Page 99</p> <p>1 A. Yes.</p> <p>2 Q. And PSI takes extreme caution in</p> <p>3 ensuring that the persons that it is shipping to</p> <p>4 are the type that are not going to divert, as we</p> <p>5 discussed earlier? You even declined to take on</p> <p>6 new customers because of that concern, correct?</p> <p>7 A. Yes.</p> <p>8 Q. It says, "This responsibility is</p> <p>9 critical, as Congress has expressly declared that</p> <p>10 the illegal distribution of controlled substances</p> <p>11 has a substantial and detrimental effect on the</p> <p>12 health and general welfare of the American</p> <p>13 people."</p> <p>14 Again, Prescription Supply accepts and</p> <p>15 agrees with that statement?</p> <p>16 A. Yes.</p> <p>17 Q. We've already seen that written several</p> <p>18 other times in the Congressional history, as well</p> <p>19 as the Controlled Substances Act, correct?</p> <p>20 A. Yes.</p> <p>21 Q. That shouldn't come as a surprise to</p> <p>22 anybody?</p> <p>23 A. No.</p> <p>24 Q. At least nobody in your line of</p>	<p style="text-align: right;">Page 101</p> <p>1 A. All right.</p> <p>2 Q. And this recites 21 C.F.R. 1301.74(b),</p> <p>3 and that's the suspicious order obligation that we</p> <p>4 talked about earlier, right?</p> <p>5 A. Yes.</p> <p>6 Q. And Prescription Supply still accepts</p> <p>7 and recognizes that that has been in place since</p> <p>8 1971, correct?</p> <p>9 MR. RICARD: Objection to form.</p> <p>10 A. Yes.</p> <p>11 Q. Then here's where it gets interesting,</p> <p>12 and here's where I want to make sure that you and</p> <p>13 I, Mr. Schoen, are on the same page.</p> <p>14 It next says, "It bears emphasis that</p> <p>15 the foregoing reporting requirement is in addition</p> <p>16 to, and not in lieu of, the general requirement</p> <p>17 under 21 U.S.C. 823(e) that a distributor maintain</p> <p>18 effective controls against diversion."</p> <p>19 MR. RICARD: Hang on.</p> <p>20 MS. MONAGHAN: Objection to form.</p> <p>21 MR. RICARD: Do you see where --</p> <p>22 THE WITNESS: I see that, yes.</p> <p>23 MR. FULLER: There we go.</p> <p>24 THE WITNESS: Yes.</p>

26 (Pages 98 to 101)

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<p>1 MR. RICARD: Take a look at it.</p> <p>2 BY MR. FULLER:</p> <p>3 Q. And I'll read it again, Mr. Schoen. "It</p> <p>4 bears emphasis that the foregoing reporting</p> <p>5 requirement is in addition to, and not in lieu of,</p> <p>6 the general requirement under 21 U.S.C. 823(e)</p> <p>7 that a distributor maintain effective controls</p> <p>8 against diversion."</p> <p>9 And let's talk about that for one</p> <p>10 second, Mr. Schoen. What the DEA is pointing out</p> <p>11 is the two separate code sections we looked at</p> <p>12 earlier. We know, and Prescription Supply agrees,</p> <p>13 that it has a statutory obligation to maintain</p> <p>14 effective controls against diversion, correct?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 Q. And that means put systems and practices</p> <p>17 and policies in place to try to prevent diversion.</p> <p>18 Does PSI agree?</p> <p>19 MR. RICARD: Same objection.</p> <p>20 A. Yes.</p> <p>21 Q. And that code section has been in full</p> <p>22 force and effect since 1970 when the Controlled</p> <p>23 Substances Act was passed, correct?</p> <p>24 MR. RICARD: Objection to form.</p>	<p>1 the United States Code that's actually passed by</p> <p>2 the U.S. Congress.</p> <p>3 A. Okay.</p> <p>4 Q. Okay?</p> <p>5 A. Okay.</p> <p>6 Q. So we're dealing with two different</p> <p>7 statutory schemes. And, again -- and I'm doing</p> <p>8 this, Mr. Schoen, so that you and I -- like I</p> <p>9 mentioned earlier, we can make sure we're on the</p> <p>10 same page because I want to make sure you</p> <p>11 understand what you're answering so I know that</p> <p>12 I'm getting -- I'm understanding what you're --</p> <p>13 the answer I'm getting as well.</p> <p>14 Okay. Now, I'm just going to hold it</p> <p>15 up.</p> <p>16 A. Okay.</p> <p>17 Q. So we have -- I hope you don't mind, but</p> <p>18 I like changing colors for emphasis. And you see</p> <p>19 if this makes sense and whether you agree, okay?</p> <p>20 So, number one, we have the U.S. code section --</p> <p>21 or excuse me. And I got that backwards. I can't</p> <p>22 write it right much less explain it right. Jeez.</p> <p>23 So, number one, the first thing we</p> <p>24 looked at this morning was the U.S. code section?</p>
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<p>1 A. Yes.</p> <p>2 Q. Separate from that, separate and</p> <p>3 distinct, on this side, we have the suspicious</p> <p>4 order reporting requirement, which is different,</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. It is a mechanism in which the wholesale</p> <p>8 distributor, in this case PSI -- I'm sorry.</p> <p>9 A. Go ahead.</p> <p>10 Q. You seemed bothered there for a second.</p> <p>11 A. Well, I'm just trying to make sure that</p> <p>12 I'm not misunderstanding.</p> <p>13 Q. No. And I'm going to try to make it as</p> <p>14 simple as I can because this is how --</p> <p>15 A. That's good because I need it to be</p> <p>16 simple.</p> <p>17 Q. This is how I know how to do it.</p> <p>18 21 C.F.R. -- so when we say "C.F.R.," we're</p> <p>19 referring to the Code of Federal Regulation.</p> <p>20 A. Yes.</p> <p>21 Q. And that's a rule promulgated by the</p> <p>22 DEA.</p> <p>23 A. Okay.</p> <p>24 Q. That's different than U.S.C., which is</p>	<p>1 A. Okay.</p> <p>2 Q. And Prescription Supply recognizes that</p> <p>3 U.S. -- 21, U.S. Code 823(e) requires effective</p> <p>4 controls against diversion, correct?</p> <p>5 MR. RICARD: Objection to form.</p> <p>6 A. Yes.</p> <p>7 Q. And that regulatory -- or excuse me.</p> <p>8 That statutory obligation has been in place in</p> <p>9 full effect since 1970 when the CSA was passed?</p> <p>10 MR. RICARD: Same objection.</p> <p>11 A. Yes.</p> <p>12 Q. In addition to that, what we saw was</p> <p>13 passed in 1971 was the Code of Federal Regulation,</p> <p>14 21 C.F.R. 1301.74(b), which is the suspicious</p> <p>15 order reporting requirement, correct?</p> <p>16 MR. RICARD: Objection to form.</p> <p>17 A. Mm-hmm.</p> <p>18 Q. Is that a yes?</p> <p>19 A. Yes.</p> <p>20 Q. And Prescription Supply agrees that it</p> <p>21 also in addition to effective controls against</p> <p>22 diversion has a suspicious order reporting</p> <p>23 requirement since 1971?</p> <p>24 MR. RICARD: Same objection.</p>

27 (Pages 102 to 105)

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<p style="text-align: right;">Page 106</p> <p>1 Q. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And when I say there's two</p> <p>4 distinct -- and when Mr. Rannazzisi is explaining</p> <p>5 in his letter, he's saying there's two distinct</p> <p>6 obligations; one, you have to maintain effective</p> <p>7 control to try to prevent diversion yourself.</p> <p>8 And you agree with that, correct?</p> <p>9 MR. RICARD: Objection to form.</p> <p>10 A. Yes.</p> <p>11 Q. You also have a suspicious order</p> <p>12 reporting requirement in addition to that you have</p> <p>13 to report suspicious orders to the DEA, correct?</p> <p>14 MR. RICARD: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And if anybody wants to, I'll --</p> <p>17 MS. MONAGHAN: Can we mark that as an</p> <p>18 exhibit?</p> <p>19 MR. FULLER: Yeah. My artwork, that</p> <p>20 will be Plaintiff's 14.</p> <p>21 ---</p> <p>22 (PSI-Schoen Exhibit 14 marked.)</p> <p>23 ---</p> <p>24</p>	<p style="text-align: right;">Page 108</p> <p>1 or not. That's just what it indicates on the</p> <p>2 letter.</p> <p>3 A. Yes.</p> <p>4 Q. Now, in all fairness, you don't have any</p> <p>5 reason to dispute that, do you?</p> <p>6 A. No.</p> <p>7 Q. Okay. Now, going back to page 2 of the</p> <p>8 document. That's what Mr. Rannazzisi is saying</p> <p>9 when he says, "It bears emphasis that the</p> <p>10 foregoing reporting requirement is in addition to,</p> <p>11 and not lieu of, the general requirement under 21</p> <p>12 U.S.C. 823(e) that a distributor maintain</p> <p>13 effective controls against diversion"?</p> <p>14 MR. RICARD: Objection to form.</p> <p>15 Q. And PSI agrees and accepts those</p> <p>16 responsibilities, correct?</p> <p>17 A. We do.</p> <p>18 MR. RICARD: Same objection.</p> <p>19 Q. Okay. Now, he goes on to explain it</p> <p>20 more, and we're going to read through that just</p> <p>21 for the fun of it, I guess.</p> <p>22 He says, "Thus, in addition to reporting</p> <p>23 all suspicious orders, a distributor has a</p> <p>24 statutory responsibility to exercise due diligence</p>
<p style="text-align: right;">Page 107</p> <p>1 BY MR. FULLER:</p> <p>2 Q. And that's where Mr. Rannazzisi who</p> <p>3 was -- I forget what his actual title was. Let's</p> <p>4 see if he puts it on his letter. Joseph</p> <p>5 Rannazzisi who did this letter was the Deputy</p> <p>6 Assistant Administrator, Office of Diversion</p> <p>7 Control, in 1996.</p> <p>8 A. Mm-hmm.</p> <p>9 MR. RICARD: You need to respond yes or</p> <p>10 no.</p> <p>11 A. I'm sorry. I don't know what the -- I</p> <p>12 didn't hear a question there.</p> <p>13 Q. No, there wasn't. I was just stating</p> <p>14 who -- what his title was.</p> <p>15 So let me state it differently. If you</p> <p>16 go to page 4 of the document, this document</p> <p>17 indicates that it was -- it is signed off on by</p> <p>18 Joseph Rannazzisi, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And it indicates that his position is</p> <p>21 Deputy Assistant Administrator of the Office of</p> <p>22 Diversion Control, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Now, you don't know whether that's right</p>	<p style="text-align: right;">Page 109</p> <p>1 to avoid filling suspicious orders that might" --</p> <p>2 might -- "be diverted into other than legitimate</p> <p>3 medical, scientific, and industrial channels.</p> <p>4 Failure to exercise such due diligence could, as</p> <p>5 circumstances warrant, provide a statutory basis</p> <p>6 for revocation or suspension of a distributor's</p> <p>7 registration."</p> <p>8 And PSI recognizes and accepts that</p> <p>9 responsibility and obligation, correct?</p> <p>10 MR. RICARD: Objection to form.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. He goes on to say, "In a similar</p> <p>13 vein, given the requirement under Section</p> <p>14 823(e)" --</p> <p>15 MR. RICARD: Can you wait until it's up?</p> <p>16 MR. FULLER: Yeah. Sorry.</p> <p>17 BY MR. FULLER:</p> <p>18 Q. All right. "In a similar vein, given</p> <p>19 the requirement under Section 823(e) that a</p> <p>20 distributor maintain effective controls against</p> <p>21 diversion, a distributor may not simply rely on</p> <p>22 the fact that the person placing the suspicious</p> <p>23 order is a DEA registrant and turn a blind eye to</p> <p>24 the suspicious circumstances."</p>



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<p>1 Prescription Supply agrees that that is</p> <p>2 the status of the law and has been since 1971,</p> <p>3 correct?</p> <p>4 MR. RICARD: Objection to form.</p> <p>5 A. Yes.</p> <p>6 Q. That just because the person you're</p> <p>7 sending to is a registrant doesn't mean that you</p> <p>8 can turn a blind eye when it's suspicious?</p> <p>9 MR. RICARD: Same objection.</p> <p>10 A. That's correct.</p> <p>11 Q. That's the same thing that you guys did</p> <p>12 at PSI repeatedly when those registrants wanted to</p> <p>13 become a new customer and there was something</p> <p>14 fishy going on, or at least you suspected</p> <p>15 something, and you turned them down, right?</p> <p>16 A. Yes. That's -- there was some reason</p> <p>17 why we turned them down, yes.</p> <p>18 Q. Sure. And, listen, I went through the</p> <p>19 applications because they were provided by your</p> <p>20 counsel, and a lot of the times it's like, "Look,</p> <p>21 this just doesn't smell right."</p> <p>22 A. That's right.</p> <p>23 Q. For whatever reason --</p> <p>24 A. We didn't take them off.</p>	<p>1 Q. Which was --</p> <p>2 A. NDWA a long time ago.</p> <p>3 Q. Right.</p> <p>4 (Reporter clarification.)</p> <p>5 A. NDWA, National Drug Wholesalers</p> <p>6 Association.</p> <p>7 Q. And HDMA has changed its name to HDA, I</p> <p>8 think, now?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And not only is Prescription</p> <p>11 Supply a member, but at different times -- and</p> <p>12 maybe the entire time -- I'm not sure -- had</p> <p>13 directors or had a director on the board.</p> <p>14 A. Recently, as the number of wholesalers</p> <p>15 has decreased, and it's been decreasing pretty</p> <p>16 fast.</p> <p>17 Q. So you made your way up the totem pole?</p> <p>18 A. Yeah. Now anybody -- any member,</p> <p>19 wholesaler member, has a board member.</p> <p>20 Q. Oh, currently?</p> <p>21 A. Currently. Now, some big wholesalers</p> <p>22 have more than one board member.</p> <p>23 Q. Sure, sure.</p> <p>24 A. But everybody has a board member.</p>
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<p>1 Q. And you didn't take them off?</p> <p>2 A. At least as controlled substance</p> <p>3 receivers.</p> <p>4 Q. And fair enough. You would agree to</p> <p>5 ship other things to them?</p> <p>6 A. But not controlled substances.</p> <p>7 Q. But that's not what they wanted,</p> <p>8 usually?</p> <p>9 A. Generally, yes.</p> <p>10 Q. And the reason you were doing that is</p> <p>11 because you knew of the heightened obligation you</p> <p>12 had and the potential for abuse and the fact that</p> <p>13 these drugs are dangerous if not handled</p> <p>14 correctly?</p> <p>15 MR. RICARD: Objection to form.</p> <p>16 A. Yes.</p> <p>17 Q. And Prescription Supply took that</p> <p>18 obligation very, very serious?</p> <p>19 A. Yes.</p> <p>20 MR. FULLER: So now I'm going -- 601.</p> <p>21 BY MR. FULLER:</p> <p>22 Q. So Prescription Supply is also a member</p> <p>23 of the H -- or what was the HDMA, correct?</p> <p>24 A. Yes.</p>	<p>1 Q. Oh, really? I didn't realize that.</p> <p>2 A. Yeah, mm-hmm.</p> <p>3 Q. Huh. Okay. Well, we're going to look</p> <p>4 at some of that.</p> <p>5 ---</p> <p>6 (PSI-Schoen Exhibit 15 marked.)</p> <p>7 ---</p> <p>8 Q. Plaintiff's Exhibit 15. So there's a</p> <p>9 lot of stuff on here that's irrelevant I'm not</p> <p>10 going to ask you about. We'll wade through it.</p> <p>11 And I'm going to go to page 12 right off</p> <p>12 the bat. So page 12 is an e-mail.</p> <p>13 MR. FULLER: Can you blow that up for</p> <p>14 me?</p> <p>15 MS. VELDMAN: Yes.</p> <p>16 BY MR. FULLER:</p> <p>17 Q. So if you look on the screen, there is a</p> <p>18 J -- it's a Harbauer?</p> <p>19 A. That's Harbauer.</p> <p>20 Q. Harbauer?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. And I'm assuming you know who that it</p> <p>23 is?</p> <p>24 A. My sister.</p>




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<p style="text-align: right;">Page 114</p> <p>1 Q. Okay. Well, there you go. Let's hope</p> <p>2 you know who she is.</p> <p>3 A. She's 89.</p> <p>4 Q. Bless her heart.</p> <p>5 So this is an e-mail coming from</p> <p>6 Brian -- or no. This is from Robert</p> <p>7 G-i-a-c-a-l-o-n-e.</p> <p>8 Do you know how to pronounce that?</p> <p>9 A. No.</p> <p>10 Q. Okay. Well, we'll go with Robert G.</p> <p>11 And he is forwarding an e-mail -- I say that -- if</p> <p>12 you read down, the subject matter is "Summary of</p> <p>13 September 7th Meeting with DEA and Attachments."</p> <p>14 Do you see that?</p> <p>15 A. All right. Yes.</p> <p>16 Q. We're blowing it up for you.</p> <p>17 A. Mm-hmm.</p> <p>18 Q. And the attachments include a Final</p> <p>19 Summary of DEA Meeting 9-7-07. There's another</p> <p>20 attachment -- there's a total of three</p> <p>21 attachments. At least that's what it says.</p> <p>22 Do you see that there?</p> <p>23 A. Yes. I see it says three attachments,</p> <p>24 yes, I do.</p>	<p style="text-align: right;">Page 116</p> <p>1 I told you there may be some things that don't</p> <p>2 look familiar. And what I want to go to is the</p> <p>3 summary, and that's on page 32 of the document, I</p> <p>4 believe.</p> <p>5 MS. VELDMAN: 31.</p> <p>6 MR. FULLER: One more, page 31. There</p> <p>7 you go. We'll start with the title though, Gina.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. All right. You see page 31 there,</p> <p>10 Mr. Schoen?</p> <p>11 A. I do.</p> <p>12 Q. It says "Summary of the DEA-HDMA Meeting</p> <p>13 on Suspicious Orders. Meeting Date: September 7,</p> <p>14 2007." Right?</p> <p>15 A. Yes.</p> <p>16 Q. And if we go to the key takeaways from</p> <p>17 the meeting, we can see what the highlights sort</p> <p>18 of were. It says, "The DEA's policy was to expect</p> <p>19 more than just reporting 'suspicious orders.' If</p> <p>20 there was a suspicious order, the distributor</p> <p>21 should either stop the delivery or should evaluate</p> <p>22 the customer further before delivering it."</p> <p>23 Does PSI agree that that has been the</p> <p>24 obligation as it understood it since 1971?</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. And then it says, "Attention RAC</p> <p>2 Members."</p> <p>3 Do you know what it means, RAC members?</p> <p>4 A. No.</p> <p>5 Q. Okay. Either do I. It wasn't a trick</p> <p>6 question.</p> <p>7 But then it reads, "HDMA met with the</p> <p>8 DEA officials last Friday to discuss the Agency's</p> <p>9 current policy position on suspicious orders. A</p> <p>10 summary highlighting the key points made during</p> <p>11 the meeting are attached above for your review.</p> <p>12 Three additional attachments containing a DEA</p> <p>13 slide presentation on suspicious orders and the</p> <p>14 DEA's Office of Diversion Control are also</p> <p>15 enclosed. Please contact me if you have any</p> <p>16 questions regarding the attached materials."</p> <p>17 So this e-mail was apparently forwarded</p> <p>18 to your sister back on September 10th of 2007; is</p> <p>19 that correct?</p> <p>20 A. That's what it seems to show, yes.</p> <p>21 Q. Now, have you had an opportunity to see</p> <p>22 this before today?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Okay. That's fair enough. And, again,</p>	<p style="text-align: right;">Page 117</p> <p>1 MR. RICARD: Objection to form.</p> <p>2 A. Yes.</p> <p>3 Q. Without question, correct?</p> <p>4 MS. MONAGHAN: Objection; form.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. This says, "Simply complying with</p> <p>7 the suspicious orders regulatory requirement does</p> <p>8 not mean, in the agency's view, that the</p> <p>9 registrant is maintaining effective programs to</p> <p>10 detect and prevent diversion."</p> <p>11 That's what we talked about, the two</p> <p>12 separate requirements, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And PSI agrees that simply reporting</p> <p>15 suspicious orders and following the regulation</p> <p>16 doesn't mean you're still following and complying</p> <p>17 with the U.S. code, correct?</p> <p>18 MR. RICARD: Objection to form.</p> <p>19 A. Yes.</p> <p>20 Q. Then the next key takeaway is, "DEA</p> <p>21 indicated they did not have the resources to</p> <p>22 inspect every pharmacy; therefore it was important</p> <p>23 for the distributor to know their customers."</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 118</p> <p>1 Q. Does PSI agree simply with the notion</p> <p>2 that it's important for the distributor to know</p> <p>3 their customers?</p> <p>4 A. Yes.</p> <p>5 Q. PSI also recognizes that -- strike that.</p> <p>6 MR. FULLER: 204, Gina.</p> <p>7 ---</p> <p>8 (PSI-Schoen Exhibit 16 marked.)</p> <p>9 ---</p> <p>10 BY MR. FULLER:</p> <p>11 Q. And we're going to flip-flop back and</p> <p>12 forth between two exhibits for a moment, only</p> <p>13 because I think it's important for complete</p> <p>14 understanding.</p> <p>15 What counsel is going to hand you is a</p> <p>16 memorandum, and it's from the U.S. Inspector</p> <p>17 General, Glenn Fine. And the subject matter is</p> <p>18 "Review of Drug Enforcement Administration's</p> <p>19 Investigations of the Diversion of Controlled</p> <p>20 Pharmaceuticals."</p> <p>21 This was done in 2002, so about five</p> <p>22 years before this meeting that we were just</p> <p>23 looking at, okay?</p> <p>24 A. All right.</p>	<p style="text-align: right;">Page 120</p> <p>1 A. It would be very difficult to do it</p> <p>2 perfectly.</p> <p>3 Q. It's like having police officers out</p> <p>4 there trying to maintain and catch people</p> <p>5 speeding. If you and I are in the State of Ohio</p> <p>6 and we're told there's only ten cops in the entire</p> <p>7 State of Ohio that are going to police speeding,</p> <p>8 we know they're not going to do a very good job,</p> <p>9 right?</p> <p>10 MR. RICARD: Same objection.</p> <p>11 A. They'll only catch a certain number of</p> <p>12 speeders.</p> <p>13 Q. Because they can't.</p> <p>14 A. Correct.</p> <p>15 Q. It's not possible. Well, the point is</p> <p>16 the same thing with the DEA back during this time</p> <p>17 frame. They didn't have enough field diversion</p> <p>18 officers to police every pharmacy. They're even</p> <p>19 admitting that to the HDMA in 2007, right?</p> <p>20 MR. RICARD: Same objection.</p> <p>21 A. Yes.</p> <p>22 Q. That's what they say. They said the DEA</p> <p>23 indicated they did not have the resources to</p> <p>24 inspect every pharmacy; therefore, it was</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. And if you'll turn to page 12. Gina is</p> <p>2 going to blow up the highlighted section for us</p> <p>3 there. And this is talking about -- and so you</p> <p>4 know, Mr. Schoen, in looking at the resources that</p> <p>5 the DEA had and the resources that were being</p> <p>6 allocated for diversion control purposes.</p> <p>7 Now, this document reads that "Diversion</p> <p>8 investigators represent 10 percent, or 523, of the</p> <p>9 DEA's 5,124 authorized investigator positions in</p> <p>10 fiscal year 2001. The authorized diversion</p> <p>11 investigator positions were assigned as follows:</p> <p>12 55 at headquarters, 455 at domestic field offices,</p> <p>13 and the remaining 13 at overseas offices."</p> <p>14 So out in the field around the country</p> <p>15 during this time, we had 455 diversion officers.</p> <p>16 That's to police all the wholesale distributors</p> <p>17 and all the shipments and all the pharmacies</p> <p>18 around this entire country.</p> <p>19 A. Mm-hmm.</p> <p>20 Q. You and I can agree there's no way 455</p> <p>21 guys are going to be able to get that done for the</p> <p>22 entire country, correct?</p> <p>23 MR. RICARD: Objection to form.</p> <p>24 Objection to scope.</p>	<p style="text-align: right;">Page 121</p> <p>1 important for the distributors --</p> <p>2 A. To know their customers.</p> <p>3 Q. Exactly. A statutory obligation that</p> <p>4 they should be doing anyway, right?</p> <p>5 MR. RICARD: Objection to form.</p> <p>6 A. Yes.</p> <p>7 Q. Certainly what PSI has done from the</p> <p>8 very beginning?</p> <p>9 A. We've tried.</p> <p>10 Q. Best you can, correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Not to say people don't make mistakes,</p> <p>13 right?</p> <p>14 A. Hopefully not.</p> <p>15 Q. Fair enough. Let's go to the --</p> <p>16 MR. FULLER: Gina, back to 60- whatever,</p> <p>17 601, page 32 now.</p> <p>18 MS. VELDMAN: Okay.</p> <p>19 THE WITNESS: This one?</p> <p>20 MR. RICARD: This one.</p> <p>21 THE WITNESS: On page 32 now?</p> <p>22 MR. RICARD: You said 32, Mike?</p> <p>23 MR. FULLER: Yes, sir.</p> <p>24</p>

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<p style="text-align: right;">Page 122</p> <p>1 BY MR. FULLER:</p> <p>2 </p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 members about the impact of these expectations."</p> <p>14 For example, in an indented bullet point, "Are</p> <p>15 members capable of inspecting their pharmacy</p> <p>16 customers?"</p> <p>17 Do you see that there?</p> <p>18 A. I see it.</p> <p>19 Q. Prescription Supply would agree that all</p> <p>20 distributors should be investigating or inspecting</p> <p>21 their pharmacy customers anyway, right?</p> <p>22 MR. RICARD: Objection to form.</p> <p>23 A. I agree, but --</p> <p>24 Q. Now, you don't know what the others are</p>	<p style="text-align: right;">Page 124</p> <p>1 duty --</p> <p>2 A. Yes.</p> <p>3 Q. -- take on that obligation, with great</p> <p>4 power also comes great responsibility, correct?</p> <p>5 A. Mm-hmm.</p> <p>6 MS. MONAGHAN: Objection; form.</p> <p>7 Q. Is that a yes?</p> <p>8 A. Yes.</p> <p>9 Q. And whether others -- no matter how</p> <p>10 large or small they want to be or choose to be,</p> <p>11 they still need to comply with the law?</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 Q. Right?</p> <p>14 A. Yes.</p> <p>15 Q. And if they don't, whoever they may be,</p> <p>16 they need to be held accountable for not complying</p> <p>17 with the law --</p> <p>18 MR. RICARD: Same objection.</p> <p>19 Q. -- right?</p> <p>20 A. Yes.</p> <p>21 </p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 123</p> <p>1 </p> <p>2</p> <p>3</p> <p>4</p> <p>5 three thousand customers of which maybe 150 or so</p> <p>6 are buying controlled substances on a regular</p> <p>7 basis.</p> <p>8 It is easier for us to control our 150</p> <p>9 in some way. And we're not perfect, but it's</p> <p>10 easier for us to control 150 than it is for</p> <p>11 perhaps some of the bigger operations to</p> <p>12 control -- how many, I have no idea.</p> <p>13 Q. Oh, sure. Now, let's talk about that</p> <p>14 just for a second. We're going to push back from</p> <p>15 the document for a minute.</p> <p>16 A. Okay.</p> <p>17 Q. No one forces anybody to get into this</p> <p>18 line of business, do they?</p> <p>19 A. That's correct.</p> <p>20 Q. People choose to get into this line of</p> <p>21 business as an entity in this controlled substance</p> <p>22 supply chain, right?</p> <p>23 A. That's correct.</p> <p>24 Q. And if you're going to take on that</p>	<p style="text-align: right;">Page 125</p> <p>1 smaller than a lot of other people, right?</p> <p>2 A. That's correct.</p> <p>3 Q. And you have how many employees?</p> <p>4 A. Seventy some.</p> <p>5 Q. Others have tens of thousands of</p> <p>6 employees.</p> <p>7 A. That's correct.</p> <p>8 Q. They should be able to train those</p> <p>9 people, just like you train your people, to</p> <p>10 conduct these investigations? You would agree</p> <p>11 with that, correct?</p> <p>12 MR. BUSHUR: Objection; form.</p> <p>13 A. I certainly try.</p> <p>14 Q. Fair enough. Fair enough.</p> <p>15 And my only point is, just because</p> <p>16 others chose to grow larger doesn't exempt them</p> <p>17 from the requirement to know their customer --</p> <p>18 MR. RICARD: Objection to form.</p> <p>19 Q. -- right?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. Let's go down to the fourth</p> <p>22 bullet point, which I think is a great question.</p> <p>23 It says, "Do we have recommendations for the DEA</p> <p>24 as to how to approach this problem in a way that</p>

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<p style="text-align: right;">Page 126</p> <p>1 simplifies things for the wholesale distributor?"</p> <p>2 Do you see that?</p> <p>3 A. I see it.</p> <p>4 Q. And wouldn't it make sense that the</p> <p>5 trade organization and the distributors, that if</p> <p>6 they could come up with a better system, that they</p> <p>7 maybe propose that to the DEA?</p> <p>8 A. Yes, yes.</p> <p>9 Q. I mean, listen, DEA doesn't have -- or</p> <p>10 the Department of Justice doesn't have the lock,</p> <p>11 stock, and barrel on good ideas, right?</p> <p>12 A. Correct.</p> <p>13 Q. I mean, you guys are operating in the</p> <p>14 industry. Maybe there are ideas that can come</p> <p>15 from the industry to help deal with this situation</p> <p>16 of controlled substances?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know if that's ever been done?</p> <p>19 MR. RICARD: Objection to form.</p> <p>20 Objection to scope.</p> <p>21 A. Do I know? I don't know that that's</p> <p>22 been done. I'm sure it has been done, but I don't</p> <p>23 know that it's been done.</p> <p>24 Q. Right. You don't know one way or</p>	<p style="text-align: right;">Page 128</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Now, I'm going to go through the</p> <p>4 same sort of qualifiers. This has the same</p> <p>5 introduction that is being sent to every</p> <p>6 registrant, manufacturer, or distributor of</p> <p>7 controlled substances, which during this time</p> <p>8 frame, Prescription Supply, Inc., was one of</p> <p>9 those, right?</p> <p>10 A. That's correct.</p> <p>11 Q. And assuming that Mr. Rannazzisi is</p> <p>12 correct and he sent this letter out to everybody,</p> <p>13 presumptively Prescription Supply would have</p> <p>14 gotten that, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Now, however, sitting here today, I'm</p> <p>17 assuming that you have not seen this letter and</p> <p>18 don't ever recall receiving it?</p> <p>19 A. I don't recall seeing it.</p> <p>20 Q. Fair enough.</p> <p>21 A. We may have received it. I don't --</p> <p>22 Q. Sure. And, listen, that may have been</p> <p>23 issues that you delegated to someone else within</p> <p>24 the business, and that's absolutely fine, okay?</p>
<p style="text-align: right;">Page 127</p> <p>1 another?</p> <p>2 A. I don't from personal knowledge have --</p> <p>3 MR. FULLER: Now, we're going to go 303.</p> <p>4 This will be Plaintiff's Exhibit 17.</p> <p>5 MR. PELINI: 17, Mike?</p> <p>6 MR. FULLER: Yes, sir.</p> <p>7 ---</p> <p>8 (PSI-Schoen Exhibit 17 marked.)</p> <p>9 ---</p> <p>10 Q. Mr. Schoen, I'm going to represent to</p> <p>11 you this is going to look a little familiar</p> <p>12 because it's another letter from the DEA. And if</p> <p>13 you look on the second page, I think the same</p> <p>14 gentleman signed it, Joe Rannazzisi, Deputy</p> <p>15 Assistant Administrator, Office of Diversion</p> <p>16 Control.</p> <p>17 Do you see that?</p> <p>18 A. I see it.</p> <p>19 Q. Seems to be the same guy as last time,</p> <p>20 right?</p> <p>21 A. It appears.</p> <p>22 Q. But this letter is dated December 27th</p> <p>23 of 2007, so about a year and three or four months</p> <p>24 after the first letter in September of 2006,</p>	<p style="text-align: right;">Page 129</p> <p>1 So the letter starts off after that</p> <p>2 introductory sentence that "The purpose of this</p> <p>3 letter is to reiterate the responsibilities of</p> <p>4 controlled substance manufacturers and</p> <p>5 distributors to inform the DEA of suspicious</p> <p>6 orders in accordance with 21 C.F.R. 1301.74(b).</p> <p>7 Do you see that there?</p> <p>8 A. I see it, yes.</p> <p>9 Q. And he, again, is reiterating what he</p> <p>10 talked about, it appears, in the September of '06</p> <p>11 letter, right?</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 A. Mm-hmm.</p> <p>14 Q. We saw that the HDMA met with him in</p> <p>15 April of 2007 and had a summary of those</p> <p>16 conversations related to these same issues,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. All right. So let's see if they have</p> <p>20 anything new or different to say now. He starts</p> <p>21 off with, "In addition to, and not lieu of" --</p> <p>22 hold on. Give her a second to get that</p> <p>23 highlighted for you.</p> <p>24 "In addition to, and not in lieu of, the</p>



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<p style="text-align: right;">Page 130</p> <p>1 general requirement under 21 U.S.C. 823, that 2 manufacturers and distributors maintain effective 3 controls against diversion, DEA regulations 4 require all manufacturers and distributors to 5 report suspicious orders of controlled 6 substances." 7 And I know we've been talking about this 8 ad litem, but you would agree that Prescription 9 Supply recognizes that duty and obligation, 10 correct? 11 MR. RICARD: Objection to form. 12 A. Yes. 13 Q. That Prescription Supply recognizes that 14 that's been the duty and obligation as a 15 registrant since 1971? 16 MR. RICARD: Same objection. 17 A. Yes. 18 Q. Okay. Now, if we go down -- yep. 19 The next paragraph starts off "The 20 regulation also requires that the registrant 21 inform local DEA Division Office of suspicious 22 orders when discovered by the registrant." 23 Does Prescription Supply agree and 24 recognize that it has an obligation to report</p>	<p style="text-align: right;">Page 132</p> <p>1 clear to the industry what they expect from its 2 registrants, correct? 3 MR. RICARD: Objection to form. 4 A. Yes. 5 Q. Prescription Supply agrees that there is 6 no question what the DEA expects in fulfilling the 7 statutory and the regulatory requirement that 8 we've looked at today? 9 A. Yes. 10 MR. RICARD: Same objection. 11 MR. FULLER: It's 11:44. We've been 12 going over an hour. Do you want to stop now for 13 lunch? Do you want to push till noon? 14 Mr. Schoen, what's your druthers? 15 THE WITNESS: You know, I just want to 16 get it over with. 17 MR. FULLER: I've never heard that 18 before. 19 MR. RICARD: If now is a good spot to 20 take a break, then we could do lunch now. 21 MR. FULLER: Yeah. I was going to jump 22 into the policies and procedures next, but that's 23 going to take a bit, so why don't we go ahead 24 and --</p>
<p style="text-align: right;">Page 131</p> <p>1 suspicious orders when they're first discovered? 2 MR. RICARD: Objection to form. 3 A. Yes. 4 Q. And we'll skip down a little bit to 5 "Registrants are." There you go, right there. 6 "Registrants are reminded that their 7 responsibility does not end merely with filing a 8 suspicious order report. Registrants must conduct 9 an independent analysis of suspicious orders prior 10 to completing a sale to determine whether the 11 controlled substances are likely to be diverted 12 from legitimate channels. Reporting an order as 13 suspicious will not absolve the registrant of 14 responsibility if the registrant knew or should 15 have known that the controlled substances were 16 being diverted." 17 Prescription Supply again agrees with 18 that obligation, correct? 19 MR. RICARD: Objection to form. 20 A. Yes. 21 Q. Now, at least by the end of 2007, we've 22 known we've had the Controlled Substances Act and 23 the regulation since 1970 and '71, but at least by 24 the end of 2007, the DEA has made it abundantly</p>	<p style="text-align: right;">Page 133</p> <p>1 MR. RICARD: Sure. 2 THE VIDEOGRAPHER: The time now is 3 11:43. Going off the record. 4 --- 5 Thereupon, at 11:43 a m. a lunch 6 recess was taken until 12:49 p m. 7 --- 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

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<p style="text-align: right;">Page 134</p> <p>1 Wednesday Afternoon Session September 5, 2018 12:59 p m. 2 3 --- 4 THE VIDEOGRAPHER: The time is now 5 12:59. Back on the record. 6 --- 7 (PSI-Schoen Exhibit 18 marked.) 8 --- 9 BY MR. FULLER: 10 Q. Mr. Schoen, we're going to pass to your 11 counsel Plaintiff's Exhibit 18. I'm going to have 12 him take a look at it first and then pass you a 13 copy. 14 And so what you'll be looking at, 15 Mr. Schoen, is this is a document from the HDMA, 16 Healthcare Distribution Management Association. 17 We talked a little bit about them earlier, right? 18 A. Yes. 19 Q. And PSI is a member of that 20 organization; is that correct? 21 A. That's correct. 22 Q. And if you look at the title of the 23 document you have in front of you -- it's also on 24 the screen. It's "Healthcare Distribution</p>	<p style="text-align: right;">Page 136</p> <p>1 MR. RICARD: Same objection. 2 A. Yes. 3 Q. And you have an understanding, just like 4 with the HDMA, that in order for the guidelines to 5 come out, all the members of the HDMA have to 6 approve it, correct? 7 A. I suppose, yeah. 8 Q. Okay. And then -- so in the 9 introduction -- and I'm going to skip the first 10 sentence and go to the next sentence that begins 11 with "Manufacturers." 12 It says, "Manufacturers, distributors, 13 pharmacies, and healthcare practitioners share a 14 mission and responsibility to continuously 15 monitor, protect, and enhance the safety and 16 security of this system to combat the increasing 17 sophisticated criminals who attempt to breach the 18 security of the legitimate supply chain." 19 And I'm sure PSI would agree that that 20 is the goal of the industry. 21 MR. RICARD: Object to form. 22 A. Yes. 23 Q. All right. If you go down to the third 24 paragraph on the page. It says, "At the center of</p>
<p style="text-align: right;">Page 135</p> <p>1 Management Association (HDMA) Industry Compliance 2 Guidelines." What this appears to be -- and 3 correct me if I am wrong -- is it's guidelines put 4 out by the HDMA for its industry, which is the 5 wholesale distribution industry, right? 6 A. That's correct. 7 Q. All right. And it says, "Reporting 8 Suspicious Orders and Preventing Diversion of 9 Controlled Substances." 10 Correct? 11 A. Yes. 12 Q. And Prescription Supply, Inc., would 13 agree that part of how we prevent diversion is by 14 reporting suspicious orders, correct? 15 A. Yes. 16 Q. Now, these are, for lack of a better 17 term -- we looked at the federal regulations and 18 the federal code. These are the industry's own 19 safety rules, if you will, that the industry came 20 up with themselves, correct? 21 MR. RICARD: Objection to form. 22 A. Yes. 23 Q. In regulating how they're going to deal 24 with controlled substances?</p>	<p style="text-align: right;">Page 137</p> <p>1 a sophisticated supply chain, distributors are 2 uniquely situated to perform due diligence in 3 order to help support the security of the 4 controlled substances they deliver to their 5 customers." 6 Does Prescription Supply, Inc., agree 7 and accept that responsibility? 8 MR. RICARD: Object to form. 9 A. Yes. 10 Q. And it talks about due diligence. That 11 would be what we were referring to earlier when we 12 talked about knowing your customers and 13 investigating potential suspicious orders and 14 things of that nature, correct? 15 A. Yes. 16 Q. And is that what Prescription Supply 17 does when it's operating in this realm? 18 A. Yes. 19 Q. It says, "Due diligence can provide a 20 greater level of assurance that those who purchase 21 controlled substances from distributors intend to 22 dispense them for legally acceptable purposes." 23 And, again, that's part of the goal of 24 having the system in place and doing due</p>

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<p style="text-align: right;">Page 138</p> <p>1 diligence, is to ensure that it's only being used</p> <p>2 for legitimate means, correct?</p> <p>3 MR. RICARD: Object to form.</p> <p>4 A. Yes.</p> <p>5 Q. "Such due diligence can reduce the</p> <p>6 possibility that controlled substances within the</p> <p>7 supply chain will reach locations they are not</p> <p>8 intended."</p> <p>9 Does Prescription Supply agree with</p> <p>10 that, that doing the due diligence can help</p> <p>11 prevent diversion?</p> <p>12 A. Yes.</p> <p>13 MR. RICARD: Object to form.</p> <p>14 Q. Does Prescription Supply agree with the</p> <p>15 reverse, that not doing due diligence can</p> <p>16 potentially lead to diversion?</p> <p>17 MR. RICARD: Object to form.</p> <p>18 A. Yeah, I suppose.</p> <p>19 Q. So, for example, with Prescription</p> <p>20 Supply, if you had taken -- or Prescription Supply</p> <p>21 had taken on some of those shady customers that we</p> <p>22 had talked about who --</p> <p>23 A. Customers that we didn't take on, yes.</p> <p>24 Q. You don't want to call them shady. I</p>	<p style="text-align: right;">Page 140</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And under the introduction, it says,</p> <p>4 "Before opening an account for a new customer, the</p> <p>5 distributor should (i) obtain background</p> <p>6 information on the customer and the customer's</p> <p>7 business; (ii) review that information carefully</p> <p>8 and, where appropriate, verify the information,</p> <p>9 and; (iii) independently investigate the potential</p> <p>10 customer."</p> <p>11 Would you agree that that is the type of</p> <p>12 due diligence that needs to be done before opening</p> <p>13 a new customer account?</p> <p>14 MR. RICARD: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. B on that page deals with</p> <p>17 information gathering. And we're going to skip</p> <p>18 sort of down to the bullet points. Do you see</p> <p>19 "The information gathering step would include"?</p> <p>20 And it provides a whole laundry list there.</p> <p>21 Do you see that?</p> <p>22 A. I see it.</p> <p>23 Q. Including credit application, background</p> <p>24 questionnaires, business background, number of</p>
<p style="text-align: right;">Page 139</p> <p>1 get that. But I've read some of what they've said</p> <p>2 and didn't say, and clearly they were shady. I'll</p> <p>3 rephrase it.</p> <p>4 A. There were reasons why we didn't take</p> <p>5 them on, yes.</p> <p>6 Q. I'll rephrase it. If Prescription</p> <p>7 Supply had taken on those customers they didn't</p> <p>8 deem desirable for whatever reason, maybe</p> <p>9 documented in the file, there's a greater chance</p> <p>10 that diversion would have occurred with those</p> <p>11 entities?</p> <p>12 A. Yes.</p> <p>13 Q. And that's the reason that you declined</p> <p>14 to accept those new customers?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 Go to page 4. "Know Your Customer Due</p> <p>18 Diligence."</p> <p>19 And this industry guideline, these safety</p> <p>20 rules that the HDMA put out, addresses each one of these</p> <p>21 issues, or at least some of them, that we've talked</p> <p>22 about, Mr. Schoen, in order. So number I -- or I there</p> <p>23 at the beginning of the page is "Know Your Customer Due</p> <p>24 Diligence."</p>	<p style="text-align: right;">Page 141</p> <p>1 prescriptions filled each day, so forth and so on.</p> <p>2 Are those the type of things that</p> <p>3 Prescription Supply undertakes in reviewing and</p> <p>4 obtaining prior to opening a new customer account?</p> <p>5 A. Yes.</p> <p>6 Q. Is that the type of, to your</p> <p>7 knowledge -- strike that.</p> <p>8 Now, let's go to page 7.</p> <p>9 And, Mr. Schoen, let's talk just a</p> <p>10 second. So we have this due diligence, know your</p> <p>11 customer requirement which we've talked about</p> <p>12 some, and we also have something that's referred</p> <p>13 to as thresholds.</p> <p>14 Have you ever heard of the term</p> <p>15 "threshold" before?</p> <p>16 A. Yes.</p> <p>17 Q. So now we're going to talk a little bit</p> <p>18 about that under this auspice of monitoring for</p> <p>19 suspicious orders, okay? And it says "Identifying</p> <p>20 Product and Customer Characteristics."</p> <p>21 </p> <p>22</p> <p>23</p> <p>24</p>

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<p>Page 142</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>Page 144</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 Q. "Separate the controlled substances, or</p> <p>24 CS, the distributor sells into groups or families</p>
<p>Page 143</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>Page 145</p> <p>1 of drugs, i.e., all controlled items containing</p> <p>2 codeine. The following information may be useful</p> <p>3 for identifying the families of drugs."</p> <p>4 And then it give us a long laundry list</p> <p>5 of ways of characterizing them.</p> <p>6 If you turn to the next page, here's</p> <p>7 where it talks about the "Develop Thresholds to</p> <p>8 Identify Orders of Interest."</p> <p>9 Do you see that there?</p> <p>10 A. Yes.</p> <p>11 Q. And it gives several that could be</p> <p>12 considered in developing thresholds. It says,</p> <p>13 "Patterns of ordering, such as comparing the</p> <p>14 present order to: Past orders from the same</p> <p>15 consumer."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. "Orders from extraordinary quantities</p> <p>19 outside of normal purchasing patterns typically</p> <p>20 followed by the customer or the customers within</p> <p>21 the same class of trade and geographical areas,"</p> <p>22 so forth and so on.</p> <p>23 And then it goes on to say that</p> <p>24 "Distributors are also encouraged to consider the</p>

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<p style="text-align: right;">Page 146</p> <p>1 following when developing thresholds: Quantities</p> <p>2 of product the dispenser initially indicated</p> <p>3 during the 'Know Your Customer Due Diligence'</p> <p>4 phase that is expected to be purchased -- that it</p> <p>5 expected to purchase"?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. "A minimum of six months sales history</p> <p>8 and a maximum of 24 months sales history are</p> <p>9 recommended."</p> <p>10 And when it "sales history," it means</p> <p>11 from the potential customer, correct?</p> <p>12 A. It does.</p> <p>13 Q. And you can ask the pharmacies to</p> <p>14 provide you with their -- I think it's been</p> <p>15 referred to as different things, but their dosage</p> <p>16 history --</p> <p>17 A. That's correct.</p> <p>18 Q. -- or sales history, right?</p> <p>19 A. We can and do.</p> <p>20 Q. And are the pharmacies -- if they want</p> <p>21 your business or they want you to sell to them,</p> <p>22 are they usually willing to provide you with that</p> <p>23 information?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And Prescription Supply agrees with</p> <p>2 these safety guidelines put out by the HDMA --</p> <p>3 A. Yes.</p> <p>4 Q. -- that this is what should be done?</p> <p>5 MR. RICARD: Object to form.</p> <p>6 A. Yes.</p> <p>7 Q. All right. We're going to jump to page</p> <p>8 11. There's a section there on documentation.</p> <p>9 Mr. Schoen, Prescription -- PSI would agree that</p> <p>10 documentation in this area is very important,</p> <p>11 correct?</p> <p>12 MR. RICARD: Object to form.</p> <p>13 A. Yes.</p> <p>14 Q. Because we need to be able to look back</p> <p>15 and see and know what has transpired in the course</p> <p>16 of dealing with customers. We need to</p> <p>17 substantiate the Know Your Customer investigation</p> <p>18 we've done, so forth and so on, correct?</p> <p>19 MR. RICARD: Same objection.</p> <p>20 A. Yes.</p> <p>21 Q. And it says here, "All investigation</p> <p>22 should be fully documented, and all records of the</p> <p>23 investigation should be retained in the</p> <p>24 appropriate location within the firm."</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. Now, if they don't, would that send up a</p> <p>2 red flag?</p> <p>3 A. Yes.</p> <p>4 Q. And why is that?</p> <p>5 A. Well, I mean, if they don't want to tell</p> <p>6 us what they're going to buy or what their usage</p> <p>7 is, it -- I mean, I probably wouldn't be doing --</p> <p>8 well, I probably -- it certainly would send up a</p> <p>9 red flag.</p> <p>10 Q. Okay. And because it causes you concern</p> <p>11 because that's part of the due diligence you have</p> <p>12 to do --</p> <p>13 A. That's right.</p> <p>14 Q. -- as a distributor to know your</p> <p>15 customer?</p> <p>16 A. That's right.</p> <p>17 Q. And without that, you can't complete</p> <p>18 your tasks, right?</p> <p>19 A. That's true.</p> <p>20 Q. Sort of like failing to report</p> <p>21 suspicious orders doesn't give the DEA the</p> <p>22 information they need to do their job, right?</p> <p>23 A. Right.</p> <p>24 MR. RICARD: Object to form.</p>	<p style="text-align: right;">Page 149</p> <p>1 Within parentheses it says "such as with</p> <p>2 other records relating to the particular</p> <p>3 customer."</p> <p>4 Does Prescription Supply agree with</p> <p>5 that --</p> <p>6 MR. RICARD: Object to form.</p> <p>7 Q. -- safety rule as stated by the HDMA?</p> <p>8 A. Yes. We probably haven't always done it</p> <p>9 properly, but yes.</p> <p>10 Q. But that's the best practice; that's the</p> <p>11 safest practice?</p> <p>12 A. That would be the safest practice.</p> <p>13 Q. "At a minimum, documentation should</p> <p>14 include the name, title, and other relevant</p> <p>15 identification of the representative of the</p> <p>16 customer contacted, dates of contact, and a full</p> <p>17 description of the questions asked and requests</p> <p>18 for information made by the distributor and of</p> <p>19 information provided by the customer."</p> <p>20 The document should -- "the</p> <p>21 documentation should include a clear statement of</p> <p>22 the final conclusion of the investigation,</p> <p>23 including why the order investigated was or was</p> <p>24 not determined to be suspicious."</p>



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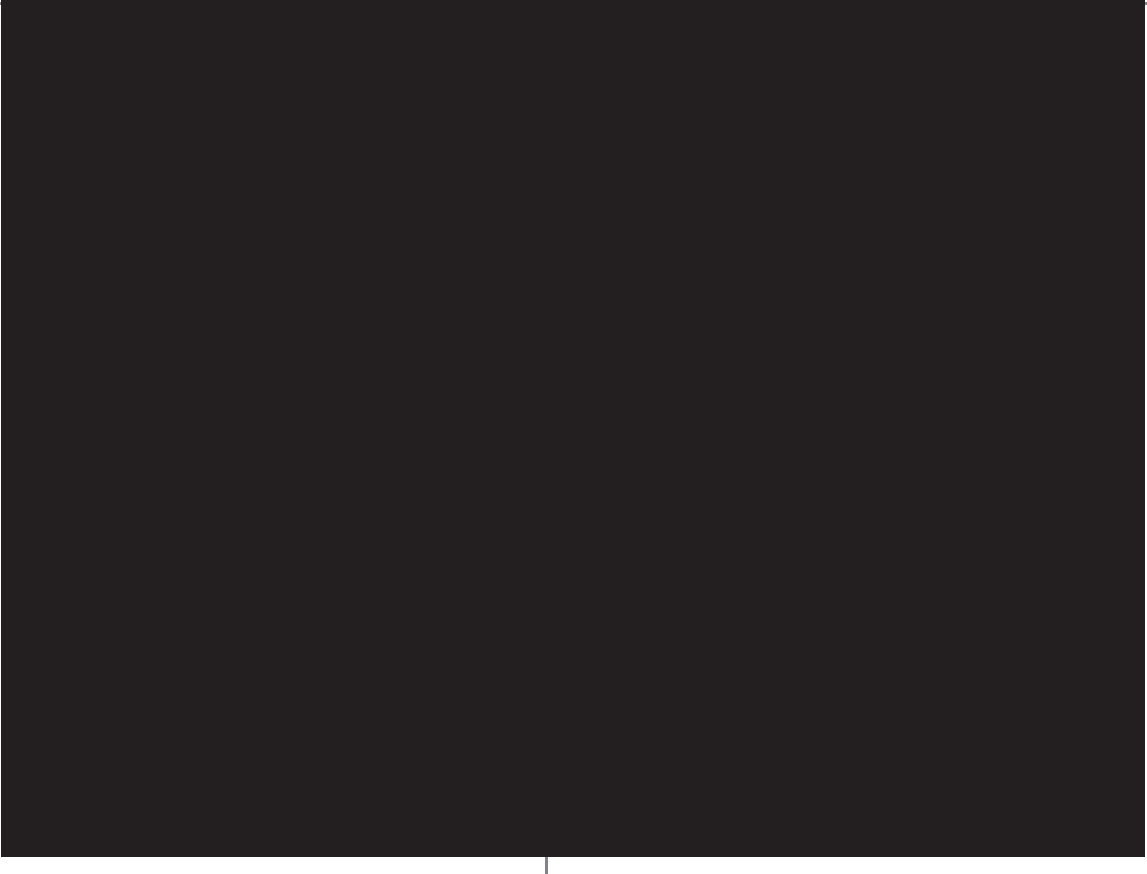
Page 150	Page 152
<p>1 Do you see that there?</p> <p>2 A. Okay. All right.</p> <p>3 Q. And do you agree with that, that that is</p> <p>4 the proper standard to conduct yourself as a</p> <p>5 registrant?</p> <p>6 MR. RICARD: Objection to form.</p> <p>7 A. Yes. But I don't think we've always</p> <p>8 done it. We've always asked the questions, but I</p> <p>9 don't know if we've always appropriately noted</p> <p>10 them.</p> <p>11 Q. Right. And I've looked at the discovery</p> <p>12 that has been provided, and we're going to just</p> <p>13 sort of put out there that 8,000-pound gorilla</p> <p>14 that may be standing over my shoulder.</p> <p>15 Prescription Supply did not report any</p> <p>16 suspicious orders, did they?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. But -- and let's continue with</p> <p>19 that. You believe that they did do the best job</p> <p>20 they could investigating new clients, new</p> <p>21 customers?</p> <p>22 A. Yes.</p> <p>23 Q. And as I mentioned to you earlier,</p> <p>24 there's documentation throughout the files of the</p>	<p>1 questions. I was not in a position to say there</p> <p>2 was something wrong with this customer. I just</p> <p>3 didn't want to do business with them because I was</p> <p>4 concerned.</p> <p>5 Q. Right. Of potential issues dealing with</p> <p>6 controlled substances?</p> <p>7 A. Potential issues.</p> <p>8 Q. With controlled substances, correct?</p> <p>9 A. Among other things, yeah.</p> <p>10 Q. Sure.</p> <p>11 Now, we're not going to spend the rest</p> <p>12 of the time going over all the -- I don't know how</p> <p>13 many pages are in this document total, 15 -- 14,</p> <p>14 15. But Prescription Supply would agree, would it</p> <p>15 not, with the HDMA safety rules that were</p> <p>16 previously provided to it?</p> <p>17 A. Yes.</p> <p>18 MR. RICARD: Object to form.</p> <p>19 MR. FULLER: So next is going to be 404.</p> <p>20 BY MR. FULLER:</p> <p>21 Q. So next, Mr. Schoen, I think we're going</p> <p>22 to go to something that you probably have seen</p> <p>23 before, some of your policies and procedures that</p> <p>24 you guys had at PSI.</p>
Page 151	Page 153
<p>1 discovery of Prescription Supply even declining</p> <p>2 potential customers --</p> <p>3 A. Yes.</p> <p>4 Q. -- because of we'll call them red flags?</p> <p>5 A. Yes. But I don't know if we actually</p> <p>6 put down why we declined them.</p> <p>7 Q. I will --</p> <p>8 A. It became obvious, but ...</p> <p>9 Q. Right. I will represent to you that</p> <p>10 there were issues of concern in some of the</p> <p>11 documents I reviewed.</p> <p>12 A. Yes.</p> <p>13 Q. And it said "Ask Tom."</p> <p>14 A. Mm-hmm.</p> <p>15 Q. And then there would be a handwritten</p> <p>16 note that "Tom says tell them no."</p> <p>17 So I think on some of them, it was</p> <p>18 abundantly clear what the issues were based on the</p> <p>19 investigation.</p> <p>20 A. I hope so, yes. But we didn't -- I</p> <p>21 don't think we put down any specific reason.</p> <p>22 Q. And you recognize that you probably</p> <p>23 should have?</p> <p>24 A. It was abundantly clear that there were</p>	<p>1 ---</p> <p>2 (PSI-Schoen Exhibit 19 marked.)</p> <p>3 ---</p> <p>4 Q. And I'll be honest with you. Some of</p> <p>5 them I completely understood and got it. Some I</p> <p>6 didn't. And there's some issues that I want to</p> <p>7 hit real briefly and go over with you.</p> <p>8 So what has been marked for -- or I</p> <p>9 guess attached as Plaintiff's Exhibit 19, which</p> <p>10 you have there, is a Prescription Supply, Inc.,</p> <p>11 document; is that right?</p> <p>12 A. It is.</p> <p>13 Q. Okay. And I think this is the first one</p> <p>14 where we have a Bates number for this case, which</p> <p>15 is PSI0000648, and is this document named</p> <p>16 "Inventory Controls."</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And this is one of your policies</p> <p>19 and procedures at Prescription Supply; is that</p> <p>20 correct?</p> <p>21 A. It is.</p> <p>22 Q. Okay. Now, it has an effective date of</p> <p>23 what?</p> <p>24 A. 7/30/09 apparently.</p>

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Page 154	Page 156
<p>1 Q. No. Look right above that.</p> <p>2 A. I'm sorry. I keep reading it back.</p> <p>3 Well, from 12/08 to --</p> <p>4 Q. Look a little bit above that.</p> <p>5 A. Oh, I see. June 2000. Okay.</p> <p>6 Q. I'm telling you, use the screen as kind</p> <p>7 of like your little cheat sheet. That's exactly</p> <p>8 where I'm at.</p> <p>9 So this document at least indicates that</p> <p>10 it was effective as of June of 2000, correct?</p> <p>11 A. Well, it's been revised, yes.</p> <p>12 Q. And it's been revised, and we have the</p> <p>13 revision dates there?</p> <p>14 A. Yes.</p> <p>15 Q. And do you believe those to be accurate?</p> <p>16 A. Yes.</p> <p>17 Q. To the best of your knowledge?</p> <p>18 A. Yes.</p> <p>19 Q. Do you believe this to be an accurate</p> <p>20 copy of a document that's kept in the normal</p> <p>21 course of business for Prescription Supply?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And I'll tell you, I'm going to</p> <p>24 sort of go through that with each document, and</p>	<p>1 same last name as your sister, I'm assuming she is</p> <p>2 related.</p> <p>3 A. Her daughter, yes.</p> <p>4 Q. Okay.</p> <p>5 A. She's my niece.</p> <p>6 Q. Got it. Got it.</p> <p>7 A. There's a lot of family in the business.</p> <p>8 Q. I saw the org chart. I agree with you.</p> <p>9 A. Yes, and a lot that you don't even</p> <p>10 recognize.</p> <p>11 Q. Probably so. Probably so. It's truly a</p> <p>12 family business. No, I get that.</p> <p>13 A. Yes.</p> <p>14 Q. Is Candy still employed with the</p> <p>15 company?</p> <p>16 A. She is.</p> <p>17 Q. Okay. Great. And she would probably be</p> <p>18 the best one to check with; is that right?</p> <p>19 A. Yes.</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>
Page 155	Page 157
<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>

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<div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div>	
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<p style="text-align: right;">Page 162</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>	<p style="text-align: right;">Page 164</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>
<p style="text-align: right;">Page 163</p> <p>1 [REDACTED] 2 Q. Okay. Now, let's break that down before 3 we move on. 4 A. Okay. 5 Q. The suspicious order requirement under 6 the C.F.R., the Code of Federal Regulation, does 7 not require you to have shipped it before you 8 reported it, right? 9 MR. RICARD: Object to form. 10 A. In fact, I believe you're not supposed 11 to ship it. 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 Q. Okay. Now, let's take that -- let's go 20 another way. We also looked at the Ohio 21 Administrative Code, and that also requires 22 certain types of orders to be reported; is that 23 right? 24 A. Yes.</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>

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Page 166	Page 168
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45 (Pages 174 to 177)

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<p style="text-align: right;">Page 178</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 Q. Take, for example, a new pharmacy -- a 12 pharmacy down the road closed. 13 A. That's a reason. 14 Q. That may be a reason? 15 A. Um-hmm. 16 Q. You may need to look to see and see who 17 that pharmacy was providing for in servicing and 18 we still need to do our other due diligence and 19 verification, correct? 20 A. Correct. 21 Q. You know, maybe increasing thresholds by 22 20, 30 percent because it's St. Patrick's Day may 23 not be such a legitimate reason? 24 A. That's correct.</p>	<p style="text-align: right;">Page 180</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>
<p style="text-align: right;">Page 179</p> <p>1 MS. MONAGHAN: Objection to form. 2 BY MR. FULLER: 3 Q. I knew they would object. 4 So there are legitimate reasons and 5 illegitimate reasons that people try to seek 6 increases in thresholds, right? 7 A. Yes. 8 Q. Now, the obligation on the distributor, 9 the registrant, is to sort out the legitimate from 10 the illegitimate requests doing the due diligence 11 that we talked about; is that fair? 12 A. That's right. 13 Q. Okay. And that's what the regulations 14 and code require, correct? 15 MR. RICARD: Objection to form. 16 A. That's correct. 17 Q. Okay. Going to page 2 of that policy 18 and procedure. 19 MR. FULLER: The first paragraph on that 20 page, Gina. 21 BY MR. FULLER: 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>

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<p style="text-align: right;">Page 182</p> <p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 THE WITNESS: Okay.</p> <p>7 BY MR. FULLER:</p> <p>8 Q. So we talked about this policy a bit.</p> <p>9 And it talks about reporting suspicious orders.</p> <p>10 A. Yes.</p> <p>11 Q. And we know Prescription Supply has</p> <p>12 never reported a suspicious order. And is it</p> <p>13 Prescription Supply's position that's because they</p> <p>14 never got a suspicious order?</p> <p>15 A. We certainly never shipped a suspicious</p> <p>16 order.</p> <p>17 Q. Well -- and I understand that. You've</p> <p>18 made that abundantly clear. But my question is a</p> <p>19 little different. Is that because Prescription</p> <p>20 Supply has never received --</p> <p>21 A. It depends on how you define a --</p> <p>22 Q. Suspicious order?</p> <p>23 A. -- suspicious order. If you define it</p> <p>24 the way it is in the code, we've received them,</p>	<p style="text-align: right;">Page 184</p> <p>1 been suspicious orders which they failed to report</p> <p>2 in the past, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. If we look at HDMA guidelines</p> <p>5 now -- let's transfer. They talk about, you're</p> <p>6 right, orders of interest, right?</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Is that a yes?</p> <p>9 A. Yes.</p> <p>10 Q. Orders of interest are nowhere mentioned</p> <p>11 in our regulatory requirements, are they?</p> <p>12 A. That's correct.</p> <p>13 Q. Basically what HDMA has done is tried to</p> <p>14 reclassify or rename suspicious orders as orders</p> <p>15 of interest?</p> <p>16 MR. RICARD: Object to form.</p> <p>17 A. Correct.</p> <p>18 Q. Okay. But just because --</p> <p>19 A. They did it. Okay. Go ahead.</p> <p>20 Q. Right. If we call a duck a dog, it</p> <p>21 doesn't change the fact that it's still a duck,</p> <p>22 right?</p> <p>23 MR. RICARD: Object to form.</p> <p>24 A. Correct.</p>
<p style="text-align: right;">Page 183</p> <p>1 okay?</p> <p>2 Q. Yes, sir.</p> <p>3 A. If you define them the way the HDMA --</p> <p>4 where they say "orders of interest," okay, and you</p> <p>5 call those orders of interest and not suspicious</p> <p>6 orders, then yes, we've never reported a</p> <p>7 suspicious order because we've never gotten one,</p> <p>8 okay?</p> <p>9 Q. That's just because we renamed them,</p> <p>10 right?</p> <p>11 A. That's because we renamed them. But I'm</p> <p>12 telling you that, you know, the -- they want to</p> <p>13 know when we find something that is truly</p> <p>14 suspicious. If we find that Joe Smith Pharmacy</p> <p>15 placed an order on the 27th that would put them</p> <p>16 over the threshold by a few hundred tablets, the</p> <p>17 DEA doesn't want to know that. They don't need to</p> <p>18 know it because it's not -- they're not going to</p> <p>19 use that.</p> <p>20 Q. And I get what you're saying. Now,</p> <p>21 let's back up and digest what you've just given</p> <p>22 us.</p> <p>23 PSI agrees that if we're looking at the</p> <p>24 regs and the statute and the code, that there have</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Okay. Let's go back to thresholds for a</p> <p>2 moment.</p> <p>3 A. Okay.</p> <p>4 Q. Now, we've talked a little bit about how</p> <p>5 thresholds are set initially. And I've seen some</p> <p>6 forms, particularly with that Board of Pharmacy</p> <p>7 investigation, related to threshold changes or</p> <p>8 change requests.</p> <p>9 Is it assuming a -- strike that.</p> <p>10 When we know our customer, we should be</p> <p>11 able to set a threshold and have that threshold</p> <p>12 maintained, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Now, there may be things in the real</p> <p>15 world and in changes in the business that cause us</p> <p>16 to have to adjust that threshold, correct?</p> <p>17 A. Correct.</p> <p>18 Q. But that should be the exception instead</p> <p>19 of the rule, meaning that we should be able to set</p> <p>20 a threshold that maintains over a period of time?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. We shouldn't see two, three, five, six,</p> <p>23 seven threshold changes within one month?</p> <p>24 MR. RICARD: Object to form.</p>

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<div>Page 186</div> <div>1 A. For one pharmacy?</div> <div>2 Q. For one pharmacy. Correct?</div> <div>3 A. I would think not.</div> <div>4 Q. Because then either -- something is</div> <div>5 wrong. Either we didn't set our threshold right</div> <div>6 at the very beginning, or maybe there's a red flag</div> <div>7 or something going on, correct?</div> <div>8 MR. RICARD: Object to form.</div> <div>9 A. Mm-hmm.</div> <div>10 Q. Do you agree?</div> <div>11 A. Yes.</div> <div>12 Q. Okay. And --</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>	<div>Page 188</div> <div>1 A. It is.</div> <div>2 Q. All right. We've been going --</div> <div>3 A. And the same thing applies --</div> <div>4 MR. RICARD: There's --</div> <div>5 THE WITNESS: Okay.</div> <div>6 MR. RICARD: -- no question --</div> <div>7 MR. FULLER: We've been going another</div> <div>8 hour. Let's take a break.</div> <div>9 MR. RICARD: Sure.</div> <div>10 THE VIDEOGRAPHER: The time is now 2:02.</div> <div>11 We're going off the record.</div> <div>12 (Recess taken.)</div> <div>13 THE VIDEOGRAPHER: The time is now 2:19.</div> <div>14 Back on the record.</div> <div>15 BY MR. FULLER:</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>
<div>1 [REDACTED]</div> <div>2 [REDACTED]</div> <div>3 [REDACTED]</div> <div>4 [REDACTED]</div> <div>5 [REDACTED]</div> <div>6 [REDACTED]</div> <div>7 [REDACTED]</div> <div>8 [REDACTED]</div> <div>9 [REDACTED]</div> <div>10 [REDACTED]</div> <div>11 [REDACTED]</div> <div>12 [REDACTED]</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>	<div>Page 189</div> <div>1 MR. RICARD: Wait for a question, Tom.</div> <div>2 THE WITNESS: Okay.</div> <div>3 BY MR. FULLER:</div> <div>4 Q. Well, I think you were trying to</div> <div>5 clarify, because I think you said earlier that you</div> <div>6 didn't use a multiplier anymore, but you think you</div> <div>7 might?</div> <div>8 A. I don't know.</div> <div>9 Q. Okay. Who would know that?</div> <div>10 A. The IT people.</div> <div>11 Q. Kirk?</div> <div>12 A. Kirk.</div> <div>13 MR. FULLER: So we're going to mark for</div> <div>14 identification purposes Exhibits 21 and 22 [sic].</div> <div>15 Gina, it's 407 and 408.</div> <div>16 MS. VELDMAN: What was the number?</div> <div>17 MR. FULLER: 407 and 408.</div> <div>18 And for the record, it's PSI0000280 and</div> <div>19 PSI0000274.</div> <div>20 MS. VELDMAN: Are you going to do one at</div> <div>21 a time?</div> <div>22 MR. FULLER: Oh, no. We're going to do</div> <div>23 three at a time. Are you kidding me? We're</div> <div>24 getting done. No. I'm kidding.</div>

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1                    ---  
2                    (PSI-Schoen Exhibits 20 and 21 marked.)  
3                    ---  
4                    BY MR. FULLER:  
5                    Q. So we have two more exhibits there in  
6                    front of you, Mr. Schoen.  
7                    [REDACTED]  
8                    [REDACTED]  
9                    [REDACTED]  
10                   [REDACTED]  
11                   [REDACTED]  
12                   [REDACTED]  
13                   [REDACTED]  
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4                   [REDACTED]  
5                   [REDACTED]  
6                   [REDACTED]  
7                   Q. Okay.  
8                   A. Yes.  
9                   MR. FULLER: Next is 503.  
10                   BY MR. FULLER:  
11                   Q. Mr. Schoen, we're going to look next at  
12                   the -- yeah, this is going to be Plaintiff's  
13                   Exhibit Number 22.  
14                   ---  
15                   (PSI-Schoen Exhibit 22 marked.)  
16                   ---  
17                   BY MR. FULLER:  
18                   Q. And have you seen --  
19                   MR. RICARD: Can I just state for the  
20                   record that although not marked as confidential,  
21                   it was our intention to mark these as confidential  
22                   documents not to be distributed outside the scope  
23                   of this deposition.  
24                   MR. FULLER: And we won't let the

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<div><div>1</div><div>witness keep them. I'm kidding.</div><div>2</div><div>BY MR. FULLER:</div><div>3</div><div>Q. All right. Have you seen this document</div><div>4</div><div>before?</div><div>5</div><div>A. Well, yes.</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div>	<div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div></div> <div></div>
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<p>1 MS. VELDMAN: What did you say, 94?</p> <p>2 MR. FULLER: 904. And for the record, I</p> <p>3 don't know that I'm going to use it right now, but</p> <p>4 I'm going to be using a macro spreadsheet in a</p> <p>5 bit, and I'll attach the thumb drive as Exhibit</p> <p>6 23.</p> <p>7 And, Counsel, here's a copy of that for y'all.</p> <p>8 ---</p> <p>9 (PSI-Schoen Exhibit 23 marked.)</p> <p>10 ---</p> <p>11 BY MR. FULLER:</p> <p>12 Q. All right. So let me tell you what I've</p> <p>13 been provided and what I've done, is, Mr. Schoen,</p> <p>14 I've been provided, as I mentioned to you earlier,</p> <p>15 the transactional data, as well as all the</p> <p>16 threshold events that your company received from</p> <p>17 2008 to present, okay?</p> <p>18 And what I've done and went through is</p> <p>19 sort of separate them out, because they were all</p> <p>20 in chronological order. And as you know from</p> <p>21 running the business, that's a whole bunch of</p> <p>22 lines with a whole bunch of different pharmacies</p> <p>23 with a whole bunch of different drugs.</p> <p>24 [REDACTED]</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>
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<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>

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Page 210	Page 212
<div>1 [REDACTED]</div> <div>2 [REDACTED]</div> <div>3 [REDACTED]</div> <div>4 [REDACTED]</div> <div>5 [REDACTED]</div> <div>6 [REDACTED]</div> <div>7 [REDACTED]</div> <div>8 [REDACTED]</div> <div>9 [REDACTED]</div> <div>10 [REDACTED]</div> <div>11 [REDACTED]</div> <div>12 [REDACTED]</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>	<div>1 [REDACTED]</div> <div>2 [REDACTED]</div> <div>3 [REDACTED]</div> <div>4 [REDACTED]</div> <div>5 [REDACTED]</div> <div>6 [REDACTED]</div> <div>7 [REDACTED]</div> <div>8 [REDACTED]</div> <div>9 [REDACTED]</div> <div>10 [REDACTED]</div> <div>11 [REDACTED]</div> <div>12 [REDACTED]</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 MR. FULLER: Okay. Now, let's go to --</div> <div>23 we're going to need to go to the macro.</div> <div>24 And, AJ, help her get to where the -- all the</div>
	Page 213
<div>1 [REDACTED]</div> <div>2 [REDACTED]</div> <div>3 [REDACTED]</div> <div>4 [REDACTED]</div> <div>5 [REDACTED]</div> <div>6 [REDACTED]</div> <div>7 [REDACTED]</div> <div>8 [REDACTED]</div> <div>9 [REDACTED]</div> <div>10 [REDACTED]</div> <div>11 [REDACTED]</div> <div>12 [REDACTED]</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>	<div>1 threshold events, and then bring it up for [REDACTED]</div> <div>2 [REDACTED], please, unless I have it.</div> <div>3 Actually, 905 I think does it. Sorry. I</div> <div>4 should have known that.</div> <div>5 BY MR. FULLER:</div> <div>6 [REDACTED]</div> <div>7 [REDACTED]</div> <div>8 [REDACTED]</div> <div>9 [REDACTED]</div> <div>10 [REDACTED]</div> <div>11 [REDACTED]</div> <div>12 [REDACTED]</div> <div>13 [REDACTED]</div> <div>14 [REDACTED]</div> <div>15 [REDACTED]</div> <div>16 [REDACTED]</div> <div>17 [REDACTED]</div> <div>18 [REDACTED]</div> <div>19 [REDACTED]</div> <div>20 [REDACTED]</div> <div>21 [REDACTED]</div> <div>22 [REDACTED]</div> <div>23 [REDACTED]</div> <div>24 [REDACTED]</div>

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<p style="text-align: right;">Page 214</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>	<p style="text-align: right;">Page 216</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 Q. Well, and understand, you don't need to 19 write anything down. I know you were reaching for 20 your pen, but counsel is going to have all this 21 information. And if he needs anything from me, I 22 can point him to where it was or what we were 23 looking at, and he can get with you, okay? 24 A. Mm-hmm. Um --</p>
<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>	<p style="text-align: right;">Page 217</p> <p>1 MR. RICARD: There's no question 2 pending. 3 MR. FULLER: Go to 506, Gina. 4 BY MR. FULLER: 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 Q. Okay. And I know you want to explain, 22 but I would just suggest listen to your advice of 23 counsel and just answer the questions being asked. 24 MR. FULLER: All right. 506. And if</p>

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<p>1 you can blow up this area here (indicating). This</p> <p>2 is going to be Plaintiff's Exhibit Number 24.</p> <p>3 ---</p> <p>4 (PSI-Schoen Exhibit 24 marked.)</p> <p>5 ---</p> <p>6 BY MR. FULLER:</p> <p>7 Q. Now, Mr. Schoen, I think this was</p> <p>8 actually an e-mail that was actually sent to you.</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Is that a yes?</p> <p>11 A. Yes.</p> <p>12 MR. RICARD: You need to respond out</p> <p>13 loud.</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>
<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>	<p>1 [REDACTED]</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 MR. FULLER: All right. Gina, if you</p> <p>8 would bring up 905A for me.</p> <p>9 Here, let me do a couple housekeeping things</p> <p>10 real quick here. So I'm going to do 25. Plaintiff's</p> <p>11 Exhibit 25 is going to be that spreadsheet that I showed</p> <p>12 him.</p> <p>13 MR. RICARD: You already saw that one.</p> <p>14 MR. FULLER: Yeah. It's just too hard</p> <p>15 to see on the printout. Although, we'll have a</p> <p>16 printout for the record. Here's a copy of 905A.</p> <p>17 ---</p> <p>18 (PSI-Schoen Exhibits 25 through 27 marked.)</p> <p>19 ---</p> <p>20 BY MR. FULLER:</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>

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57 (Pages 222 to 225)

58 (Pages 226 to 229)

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<div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div> <div></div>	<div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div> <div></div>
<div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div> <div></div>	<div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div></div> <div><p>MR. PELINI: Mike, I'm real sensitive about the use of the term "old man."</p><p>MR. FULLER: Hey, hey, hey. This isn't a litigation to be in if you don't get your feelings hurt down there. Toughen up --</p><p>MR. PELINI: All right. I'm sorry.</p><p>MR. FULLER: -- Mr. OSU.</p><p>MR. PELINI: Now we have a problem.</p><p>MR. FULLER: All right. So this is going to be Plaintiff's Exhibit 28.</p><p>And that's where I'm going, Gina.</p><p>---</p></div>

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Page 234	Page 236
<div><div>1</div><div>(PSI-Schoen Deposition Exhibit 28 marked.)</div><div>2</div><div>---</div><div>3</div><div>BY MR. FULLER:</div><div>4</div><div>Q. So Plaintiff's Exhibit 28 is a document</div><div>5</div><div>from the State of Ohio Board of Pharmacy.</div><div>6</div><div>Do you see that?</div><div>7</div><div>A. I see it.</div><div>8</div><div>Q. And it's the Summary Suspension/Notice</div><div>9</div><div>of Opportunity for Hearing, correct?</div><div>10</div><div>A. Yes.</div><div>11</div><div></div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div></div>	<div><div>1</div><div></div><div>2</div><div></div><div>3</div><div></div><div>4</div><div></div><div>5</div><div></div><div>6</div><div></div><div>7</div><div></div><div>8</div><div></div><div>9</div><div></div><div>10</div><div></div><div>11</div><div></div><div>12</div><div></div><div>13</div><div></div><div>14</div><div></div><div>15</div><div></div><div>16</div><div></div><div>17</div><div></div><div>18</div><div></div><div>19</div><div></div><div>20</div><div></div><div>21</div><div></div><div>22</div><div></div><div>23</div><div></div><div>24</div><div></div></div>
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<p style="text-align: right;">Page 238</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 MR. FULLER: Fair enough. We'll take a 19 quick break. 20 THE VIDEOGRAPHER: The time is now 3:25. 21 Going off the record. 22 (Recess taken.) 23 THE VIDEOGRAPHER: Okay. The time is 24 now 3:39. Back on the record.</p>	<p style="text-align: right;">Page 240</p> <p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>
<p style="text-align: right;">Page 239</p> <p>1 BY MR. FULLER: 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 [REDACTED] 12 [REDACTED] 13 [REDACTED] 14 [REDACTED] 15 [REDACTED] 16 [REDACTED] 17 [REDACTED] 18 [REDACTED] 19 [REDACTED] 20 [REDACTED] 21 [REDACTED] 22 [REDACTED] 23 [REDACTED] 24 [REDACTED]</p>	<p>1 [REDACTED] 2 [REDACTED] 3 [REDACTED] 4 [REDACTED] 5 [REDACTED] 6 [REDACTED] 7 [REDACTED] 8 [REDACTED] 9 [REDACTED] 10 [REDACTED] 11 Q. All right. I'm going to run us through 12 two more documents real quick, and then we'll turn 13 it over to your counsel in case he has any 14 questions, okay? 15 A. Mm-hmm. 16 --- 17 (PSI-Schoen Deposition Exhibit 29 marked.) 18 --- 19 Q. This is going to be Plaintiff's Exhibit 20 Number 29. 21 So I don't know if you know, Mr. Schoen, 22 but there is a thing called the Wayback Machine. 23 Have you ever heard of the Wayback 24 Machine?</p>

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<p>1 A. No.</p> <p>2 Q. You can go way, way back.</p> <p>3 A. Way, way back.</p> <p>4 Q. At least on the Internet, and you can</p> <p>5 pull up older websites. What I've done is I've</p> <p>6 pulled up the HDMA website for this -- you know</p> <p>7 what? I think I gave you my copy, guys.</p> <p>8 A. Do you want it back?</p> <p>9 Q. Yeah.</p> <p>10 MR. RICARD: The one with the circles on</p> <p>11 it?</p> <p>12 MR. FULLER: It doesn't matter. The</p> <p>13 other one just doesn't have circles. It will help</p> <p>14 you get to it faster.</p> <p>15 BY MR. FULLER:</p> <p>16 Q. So the Wayback Machine tells me that</p> <p>17 from '04 to 2014, if you look at the second page,</p> <p>18 Christopher Schoen --</p> <p>19 A. Has been on the board.</p> <p>20 Q. Is one of the board members, Vice</p> <p>21 President - Sales, Prescription Supply, Inc.</p> <p>22 And what relation is Christopher to you?</p> <p>23 A. Son.</p> <p>24 Q. Okay. Does he still work at the</p>	<p>1 Cardinal versus the Department of Justice matter.</p> <p>2 MR. FULLER: It is 108. Oh, excuse me.</p> <p>3 107.</p> <p>4 BY MR. FULLER:</p> <p>5 Q. This is part of the pleadings from that</p> <p>6 matter. And in the legal world, there is issues</p> <p>7 of significant importance being considered by a</p> <p>8 court. Different organizations can ask to file</p> <p>9 what's called and amicus curiae brief --</p> <p>10 A. Okay.</p> <p>11 Q. -- meaning of public interest. And the</p> <p>12 HDMA, your trade organization, did that on behalf</p> <p>13 of Cardinal and related to its action involving</p> <p>14 the DOJ.</p> <p>15 A. Okay.</p> <p>16 Q. I'll tell you they also did the same</p> <p>17 related to that Masters Pharmaceuticals case that</p> <p>18 we looked at at the beginning this morning. I</p> <p>19 didn't show you that document, but they did.</p> <p>20 A. Okay.</p> <p>21 Q. It's a service they provide, or</p> <p>22 something that they do related to some legal</p> <p>23 matters. This is that document, and there's a few</p> <p>24 sections that I want to show you. I think I know</p>
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<p>1 business?</p> <p>2 A. Yes.</p> <p>3 Q. Is he still in sales?</p> <p>4 A. Yes.</p> <p>5 Q. Is he still a board member of the HDMA?</p> <p>6 A. Yes, mm-hmm.</p> <p>7 Q. Fair enough.</p> <p>8 A. You understand that we have -- all</p> <p>9 right.</p> <p>10 Q. You see, what makes him really nervous</p> <p>11 is he's not exactly sure what you're fixing to</p> <p>12 say. That makes all of us nervous when our</p> <p>13 clients are going to say something we're not sure</p> <p>14 what they're going to say.</p> <p>15 ---</p> <p>16 (PSI-Schoen Deposition Exhibit 30 marked.)</p> <p>17 ---</p> <p>18 Q. All right. Plaintiff's Exhibit 30. So</p> <p>19 you understand what this is -- because I told you</p> <p>20 there wouldn't be any more legal documents, but</p> <p>21 then I took that back, and I said there may be</p> <p>22 one. This is my one, okay?</p> <p>23 A. Yes.</p> <p>24 Q. So what this is, is it relates to the</p>	<p>1 what your answer is going to be, but I want to</p> <p>2 take care of it for the record, okay?</p> <p>3 MR. RICARD: Mike, before you get</p> <p>4 started, can I just note an objection to the</p> <p>5 extent you're going to seek a legal conclusion?</p> <p>6 MR. FULLER: Sure. Objection noted for</p> <p>7 the record.</p> <p>8 BY MR. FULLER:</p> <p>9 Q. And the first part I want to ask you</p> <p>10 about is on the bottom of page 1 onto page 2.</p> <p>11 Actually, just the bottom of page 1.</p> <p>12 MR. FULLER: Just give me the bottom of</p> <p>13 page 1, Gina.</p> <p>14 BY MR. FULLER:</p> <p>15 Q. And there it says -- and it's in front</p> <p>16 of you on the electronic screen, Mr. Schoen.</p> <p>17 It says, "HDMA's members" -- which</p> <p>18 Prescription Supply is one of, correct?</p> <p>19 A. Correct.</p> <p>20 Q. -- "have not only statutory and</p> <p>21 regulatory responsibilities to detect and prevent</p> <p>22 diversion of controlled prescription drugs, but</p> <p>23 undertake such efforts as responsible members of</p> <p>24 society."</p>

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<p style="text-align: right;">Page 246</p> <p>1 Does Prescription Supply agree with that</p> <p>2 statement?</p> <p>3 MR. RICARD: Objection to form.</p> <p>4 A. Yes.</p> <p>5 Q. "The public health dangers associated</p> <p>6 with the diversion and abuse of controlled</p> <p>7 prescription drugs have been well-recognized over</p> <p>8 the years by Congress, DEA, HDMA, and its members,</p> <p>9 and public health authorities."</p> <p>10 PSI also agrees and accepts that</p> <p>11 statement, correct?</p> <p>12 MR. RICARD: Objection to form.</p> <p>13 A. Yes.</p> <p>14 Q. PSI also agrees that it has not only a</p> <p>15 regulatory and statutory duty as mentioned there,</p> <p>16 but also a duty as a good public actor to protect</p> <p>17 the public from these dangerous controlled</p> <p>18 substances, correct?</p> <p>19 MR. RICARD: Same objection.</p> <p>20 A. Yes.</p> <p>21 Q. Basically a common law duty, if you</p> <p>22 will, correct?</p> <p>23 MR. RICARD: Same objection.</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 248</p> <p>1 THE VIDEOGRAPHER: The time is now 3:49.</p> <p>2 Going off the record.</p> <p>3 (Recess taken.)</p> <p>4 THE VIDEOGRAPHER: Okay. The time is</p> <p>5 now 3:58. Back on the record.</p> <p>6 MR. RICARD: I do not have any questions</p> <p>7 for Mr. Schoen. We would just request that the</p> <p>8 transcript be marked as highly confidential</p> <p>9 pursuant to the protective order that governs this</p> <p>10 case.</p> <p>11 MR. FULLER: Why are you all looking at</p> <p>12 me? I'm already finished.</p> <p>13 Does any other defense counsel have any</p> <p>14 questions?</p> <p>15 MR. PELINI: It's out of respect we're</p> <p>16 looking at you.</p> <p>17 THE VIDEOGRAPHER: The time is now 3:58.</p> <p>18 This concludes the deposition. Going off the</p> <p>19 record.</p> <p>20 (Signature not waived.)</p> <p>21 ---</p> <p>22 Thereupon, at 3:58 p m., on Wednesday,</p> <p>23 September 5, 2018, the deposition was concluded.</p> <p>24 ---</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. Okay. Page 7. Here the HDMA says, "The</p> <p>2 societal costs of prescription drugs are" -- it's</p> <p>3 in front of you on the electric screen, too,</p> <p>4 Mr. Schoen.</p> <p>5 A. Okay.</p> <p>6 Q. So the HDMA says the societal costs of</p> <p>7 prescription drugs are what?</p> <p>8 A. Huge.</p> <p>9 Q. "The development and</p> <p>10 implementation of practices and procedures to</p> <p>11 detect and prevent diversion are burdens that HDMA</p> <p>12 members willingly bear."</p> <p>13 You agree with that, correct?</p> <p>14 MR. RICARD: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. And if members of the HDMA do not</p> <p>17 develop and implement practices and procedures to</p> <p>18 detect and prevent diversion, they should be held</p> <p>19 responsible for their fair share of these huge</p> <p>20 societal costs, correct?</p> <p>21 MR. RICARD: Objection to form.</p> <p>22 A. Yes.</p> <p>23 MR. FULLER: I don't have anything</p> <p>24 further.</p>	<p style="text-align: right;">Page 249</p> <p>1 CERTIFICATE</p> <p>2 STATE OF OHIO :</p> <p>3 SS:</p> <p>4 COUNTY OF _____:</p> <p>5 I, THOMAS G. SCHOEN, do hereby certify that I</p> <p>6 have read the foregoing transcript of my</p> <p>7 cross-examination given on September 5, 2018; that</p> <p>8 together with the correction page attached hereto noting</p> <p>9 changes in form or substance, if any, it is true and</p> <p>10 correct.</p> <p>11 _____</p> <p>12 THOMAS G. SCHOEN</p> <p>13 I do hereby certify that the foregoing</p> <p>14 transcript of the cross-examination of THOMAS G. SCHOEN</p> <p>15 was submitted to the witness for reading and signing;</p> <p>16 that after he had stated to the undersigned Notary</p> <p>17 Public that he had read and examined his</p> <p>18 cross-examination, he signed the same in my presence on</p> <p>19 the _____ day of _____, 2018.</p> <p>20 _____</p> <p>21 NOTARY PUBLIC - STATE OF OHIO</p> <p>22 My Commission Expires:</p> <p>23 _____, _____. 24 _____.</p>

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## 1 CERTIFICATE

2 STATE OF OHIO :

3 SS:

4 COUNTY OF FRANKLIN :

5 I, Carol A Kirk, a Registered Merit Reporter  
and Notary Public in and for the State of Ohio, duly  
commissioned and qualified, do hereby certify that the  
within-named THOMAS G SCHOEN was by me first duly sworn  
6 to testify to the truth, the whole truth, and nothing  
but the truth in the cause aforesaid; that the  
7 deposition then given by him was by me reduced to  
stenotype in the presence of said witness; that the  
8 foregoing is a true and correct transcript of the  
deposition so given by him; that the deposition was  
9 taken at the time and place in the caption specified and  
was completed without adjournment; and that I am in no  
10 way related to or employed by any attorney or party  
hereto or financially interested in the action; and I am  
11 not, nor is the court reporting firm with which I am  
affiliated, under a contract as defined in Civil Rule  
12 28(D)

13 IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my seal of office at Columbus, Ohio on  
14 this 10th day of September 2018  
15  
16  
17  
18

CAROL A KIRK, RMR

NOTARY PUBLIC - STATE OF OHIO

My Commission Expires: April 9, 2022

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## 1 DEPOSITION ERRATA SHEET

2 I, THOMAS G SCHOEN, have read the transcript  
of my deposition taken on the 5th day of September 2018,  
3 or the same has been read to me I request that the  
following changes be entered upon the record for the  
4 reasons so indicated I have signed the signature page  
and authorize you to attach the same to the original  
5 transcript

6 Page Line Correction or Change and Reason Therefor:

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24 Date \_\_\_\_\_ Signature \_\_\_\_\_

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